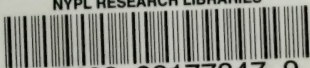



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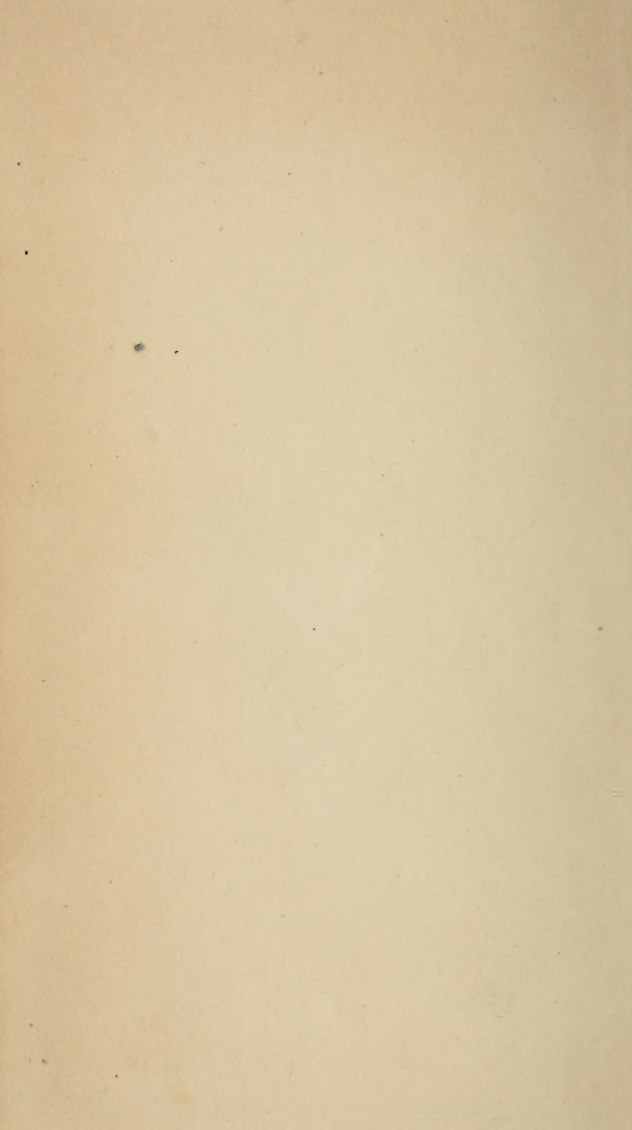


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STATE PAPERS

RELATING TO THE

DIPLOMATICK TRANSACTIONS

BETWEEN THE

AMERICAN AND FRENCH
GOVERNMENTS,

*From the Year 1793, to the Conclusion of the Convention,
on the 30th of September, 1800.*

COLLECTED BY

A. G. GEBHARDT,

KNIGHT OF THE SAXON ORDER OF CIVIL MERIT,

Formerly Secretary to the Saxon Legation in London.

VOLUME III.

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F.

MISSION ET CORRESPONDANCE OFFICIELLE
DE MESSRS CH. C. PINCKNEY, J. MAR-
SHALL ET E. GERRY, ENVOYÉS EXTRAOR-
DINAIRES ET MINISTRES PLÉNIPOTEN-
TIAIRES DES ETATS-UNIS D'AMÉRIQUE,
PRÈS LA RÉPUBLIQUE FRANÇAISE, EN 1797
ET 1798(*).

*Résolution du Congrès du 22 Juin 1798, de faire im-
primer et distribuer gratis dans les Etats-Unis les Ins-
tructions et la Correspondance des Ministres Américains
à Paris.*

FIFTH CONGRESS OF THE UNITED STATES, AT THE
SECOND SESSION.

Resolved by the Senate and House of Representatives
of the United States of America, in Congress assembled,
that the Secretary of State be, and hereby is authorized
and directed to cause to be printed a number of copies, not
exceeding 10,000, of the instructions to the envoys extra-

(*) Cette correspondance a été publiée officiellement, par
ordre du Congrès des Etats-Unis, en 1799, sous le titre sui-
vant : "Instructions to the Envoys extraordinary and Ministers
plenipotentiary from the United States of America, to the
French Republic, their Letters of Credence and full Powers,
and the Dispatches received from them relative to their Mis-
sion; published by the Secretary of State, in Conformity with
the Resolution of Congress, of the 22d June, 1798.—
Philadelphia."

ordinary and ministers plenipotentiary of the United States to the French Republic, and of all the dispatches hitherto received from them, and which have been communicated by the President of the United States to both Houses of Congress; and to cause the same to be distributed, gratis, throughout the United States, and particularly in such parts thereof wherein the dissemination of information, through the medium of news-papers, is most obstructed.

JONATHAN DAYTON,
Speaker of the House of Representatives.

TH. JEFFERSON,
Vice-President of the United States, and
President of the Senate.

Approved—June 22, 1798.

JOHN ADAMS,
President of the United States.

*Résolution de la Chambre des Représentans du 2
Avril 1798, de demander au Président des Etats-Unis
Communication des Instructions et Dépêches des Minis-
tres Américains à Paris.*

In the House of Representatives of the United States,
Monday, the 2d of April, 1798.

Resolved, That the President of the United States be requested to communicate to this House, the instructions to, and dispatches from the envoys extraordinary from the United States, to the French Republic, mentioned in his message of the 19th ultimo.

Extract from the Journal.

JONATHAN W. CONDY, Clerk.

Message du Président du 3 Avril 1798, par lequel il communique confidentiellement au Congrès les Pièces qu'avait demandées la Chambre des Représentans.

Message of the President of the United States, to both Houses of Congress.

Gentlemen of the Senate, and
Gentlemen of the House of Representatives,

In compliance with the request of the House of Representatives, expressed in their resolution of the second of this month, I transmit to both Houses, *those instructions to and dispatches from, the Envoys Extraordinary of the United States to the French Republic*, which were mentioned in my message of the nineteenth of March last, omitting only some names, and a few expressions descriptive of the persons.

I request that they may be considered in confidence, until the members of Congress are fully possessed of their contents, and shall have had opportunity to deliberate on the consequences of their publication; after which time I submit them to your wisdom.

JOHN ADAMS.

*United States,
April 3d, 1798.*

Instructions des Ministres d'Amérique, en Date du 15 Juillet, 1797. L'Etat de Neutralité des Etats-Unis ayant été la Cause et le Prétexte des Offenses et des Vexations, dont le Gouvernement Fédéral se plaint d'avoir été accablé par la France, les Ministres Américains sont chargés de demander le Redressement de ces Grieffs, surtout par Rapport aux Déprédations et autres Torts, auxquels a été exposé le Commerce Américain de la Part de la France.—Notice des principaux Points, qui ont besoin d'être changés ou revus dans le Traité de Commerce, et dans les autres Traités faits avec la France; l'Attention des Ministres est dirigée principalement sur la Garantie réciproque donnée dans le Traité d'Alliance et à laquelle le Gouvernement Fédéral voudrait qu'on renonçât entièrement de Part et d'autre, si non, que l'on en modifiât les Stipulations d'une Manière plus précise.—Révision des Articles du Traité de Commerce, auxquels il serait bon de faire des Changemens;—Conduite que les Ministres Plénipotentiaires auront à tenir relativement au Renouvellement de la Convention consulaire;—Sur l'Intervalle qui doit se trouver dans la Sortie des Ports d'Amérique des Vaisseaux de Guerre des différentes Nations belligérantes;—Sur la Ligne juridictionnelle dans les Eaux de l'Amérique.—Principes généraux que les Ministres auront à suivre dans la Négociation.—Il leur est recommandé surtout, d'être fermes et modérés dans leur Langage, pour obtenir le principal But du Gouvernement Fédéral, la Conservation de la Paix avec la France.

Instructions to Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, Esquires, Envoys Extraordinary and Ministers Plenipotentiary, from the United States of America to the French Republic.

GENTLEMEN,

It is known to you, that the people of the United States of America entertained a warm and sincere affection for the people of France, ever since their arms were united in the war with Great Britain, which ended in the full and formal acknowledgment of the independence of

these States. It is known to you, that this affection was ardent, when the French determined to reform their government and establish it on the basis of liberty ; that liberty in which the people of the United States were born, and which in the conclusion of the war above mentioned was finally and firmly secured. It is known to you, that this affection rose to enthusiasm, when the war was kindled between France and the powers of Europe, which were combined against her for the avowed purpose of restoring the monarchy ; and every where vows were heard for the success of the french arms. Yet during this period France expressed no wish that the United States should depart from their neutrality. And while no duty required us to enter into the war , and our best interests urged us to remain at peace, the government determined to take a neutral station : which being taken, the duties of an impartial neutrality became indispensably binding. Hence the government early proclaimed to our citizens the nature of those duties and the consequences of their violation.

The minister of France, Mr. Genet, who arrived about this time, by his public declarations, confirmed the idea, that France did not desire us to quit the ground we had taken. His measures however were calculated to destroy our neutrality and to draw us into the war.

The principles of the proclamation of neutrality, founded on the law of nations, which is the law of the land, were afterwards recognized by the national legislature, and observance of them enforced by specific penalties, in the act of congress passed the fifth of June 1794. By these principles and laws the acts of the executive and the decisions of the courts of the United States were regulated.

A government thus fair and upright in its principles and just and impartial in its conduct, might have confidently hoped to be secure against formal official censure : but the United States have not been so fortunate. The acts of their government, in its various branches, though pure in their principle and impartial in operation, and

conformable to their indispensable rights of sovereignty, have been assigned as the cause of the offensive and injurious measures of the French Republic. For proofs of the former, all the acts of the government may be vouched ; while the aspersions so freely uttered by the french ministers, the refusal to hear the minister of the United States specially charged to enter on amicable discussions on all the topics of complaint, the decrees of the Executive Directory and of their agents, the depredations on our commerce and the violences against the persons of our citizens, are evidences of the latter. These injuries and depredations will constitute an important subject of your discussions with the government of the French Republic ; and for all these wrongs you will seek redress.

In respect to the depredations on our commerce, the principal objects will be, to agree on an equitable mode of examining and deciding the claims of our citizens, and the manner and periods of making them compensation. As to the first, the seventh article of the british and the twenty first of the spanish treaty present approved precedents to be adopted with France. The proposed mode of adjusting those claims, by commissioners appointed on each side, is so perfectly fair, we cannot imagine that it will be refused. But when the claims are adjusted, if payment in specie cannot be obtained, it may be found necessary to agree, in behalf of our citizens, that they shall accept public securities, payable with interest at such periods as the state of the french finances shall render practicable. These periods you will endeavour as far as possible to shorten.

Not only the recent depredations, under colour of the decrees of the Directory of the second of July 1796 and the second of March 1797, or under the decrees of their agents, or the illegal sentences of their tribunals, but all prior ones, not already satisfactorily adjusted, should be put in this equitable train of settlement. To cancel many or all of the last mentioned claims, might be the effect of the decree of the Executive Directory of the second of March last, reviving the decree of the 9th of May 1793 : but this being an *ex post facto* regulation,

as well as a violation of the treaty between the United States and France, cannot be obligatory on the former. Indeed the greater part, probably nearly all the captures and confiscations in question, have been committed in direct violation of that treaty or of the law of nations. But the injuries arising from the capture of enemies property in vessels of the United States, may not be very extensive ; and if for such captured property the French Government will, agreeably to to the law of nations, pay the freight and reasonable demurrage, we shall not, on this account any farther contend. But of ship timber and naval stores taken and confiscated by the French, they ought to pay the full value ; because our citizens continued their trafic in those articles under the faith of the treaty with France. On these two points we ought to expect that the French Government will not refuse to do us justice : and the more, because it has not, at any period of the war, expressed its desire that the commercial treaty should in these respects be altered.

Besides the claims of our citizens for depredations on their property, there are many arising from express contracts made with the French Government or its agents, or founded on the seizure of their property in french ports. Other claims have arisen from the long detention of a multitude of our vessels in the ports of France. The wrong hereby done to our citizens was acknowledged by the French Government, and in some, perhaps in the most of the cases, small payments towards indemnifications have been made : the residue still remains to be claimed.

All these just demands of our citizens will merit your attention. The best possible means of compensation must be attempted. These will depend on what you shall discover to be practicable in relation to the french finances. But an exception must be made in respect to debts due to our citizens by the contracts of the French Government and its agents, if they are comprehended in any stipulation ; and an option reserved to them, jointly or individually, either to accept the means of payment which you shall stipulate, or to re-

sort to the French Government, directly, for the fulfilment of its contracts.

Although the reparation for losses sustained by the citizens of the United States, in consequence of irregular or illegal captures or condemnations, or forcible seizures or detentions, is of very high importance, and is to be pressed with the greatest earnestness, yet it is not to be insisted on as an indispensable condition of the proposed treaty. You are not, however, to renounce these claims of our citizens, nor to stipulate that they be assumed by the United States as a loan to the French Government.

In respect to the alterations of the commercial treaty with France, in the two cases which have been principal subjects of complaint on her part, viz. enemies property in neutral ships, and the articles contraband of war ; although France can have no right to claim the annulling of stipulations at the moment when by both parties they were originally intended to operate ; yet if the French Government press for alteration, the President has no difficulty in substituting the principles of the law of nations, as stated in the 17th and 18th articles of our commercial treaty with Great-Britain, to those of the 23d and 24th articles of our commercial treaty with France : and in respect to provisions, and other articles not usually deemed contraband, you are to agree only on a temporary compromise, like that in the 18th article of the british treaty, and of the same duration. If, however, in order to satisfy France *now she is at war*, we change the two important articles before mentioned, then the 14th article of the french treaty, which subjects the property of the neutral nation found on board enemies ships to capture and condemnation, must of course be abolished.

We have witnessed so many erroneous constructions of the treaty with France, even in its plainest parts, it will be necessary to examine every article critically, for the purpose of preventing, as far as human wisdom can prevent, all future misinterpretations. The kind of documents necessary for the protection of the neutral vessels should be enumerated and minutely described ; the cases in which a sea-letter should be required may be specified ;

the want of a sea-letter should not of itself be a cause of confiscation, where other reasonable proof of property is produced; and where such proof is furnished, the want of a sea-letter should go no further than to save the captor from damages for detaining and bringing in the neutral vessel. The proportion of the vessel's crew which may be foreigners should be agreed on. Perhaps it will be expedient to introduce divers other regulations conformably to the marine laws of France. Whenever these are to operate on the commerce of the United States, our safety requires that, as far as possible, they be fixed by treaty. And it will be desirable to stipulate against any *ex post facto law* or regulation, under any pretence whatever.

Great-Britain has often claimed a right, and practised upon it, to prohibit neutral nations carrying on a commerce with her enemies which had not been allowed in time of peace. On this head, it will be desirable to come to an explicit understanding with France; and if possible, to obviate the claim by an express stipulation.

Such extensive depredations have been committed on the commerce of neutrals, and especially of the United States, by the citizens of France, under pretence that her enemies (particularly Great-Britain) have done the same things, it will be desirable to have it explicitly stipulated, that the conduct of an enemy towards the neutral power shall not authorize or excuse the other belligerent power in any departure from the law of nations or the stipulations of the treaty: especially that the vessels of the neutral nation shall never be captured or detained, or their property confiscated or injured, because bound to or from an enemy's port, except the case of a blockaded port, the entering into which may be prevented according to the known rule of the law of nations. And it may be expedient to define a blockaded place or port to be one actually invested by land or naval forces, or both, and that no *declaration* of a blockade shall have any effect without such actual investment. And no commercial right whatever should be abandoned

which is secured to neutral powers by the european law of nations.

The foregoing articles being those which the French Government has made the ostensible grounds of its principal complaints, they have naturally been first brought into view. But the proposed alterations and arrangements suggest the propriety of revising all our treaties with France. In such revision, the first object that will attract your attention, is the reciprocal guaranty, in the eleventh article of the treaty of alliance. This guaranty we are perfectly willing to renounce. The guaranty, by France, of the liberty, sovereignty, and independence of the United States, will add nothing to our security ; while, on the contrary, our guaranty of the possessions of France in America, will perpetually expose us to the risque and expense of war, or to disputes and questions concerning our national faith.

When Mr. Genet was sent as the minister of the French Republic to the United States, its situation was embarrassed, and the success of its measures problematical. In such circumstances it was natural that France should turn her eye to the mutual guaranty : and accordingly it was required, in Mr. Genet's instructions, to be " an essential clause in the new treaty," which he was to propose : and on the ground " that it nearly concerned the peace and prosperity of the french nation, that a people whose resources increase beyond all calculation, and whom nature had placed so near their rich colonies, should become interested, by their own engagements, in the preservation of those islands." But at this time, France, powerful by her victories, and secure in her triumphs, may less regard the reciprocal guaranty, with the United States, and be willing to relinquish it. As a substitute for the reciprocal guaranty may be proposed a mutual renunciation of the same territories and possessions, that were subjects of the guaranty and renunciation in the sixth and eleventh articles of the treaty of alliance. Such a renunciation on our part, would obviate the reason assigned in the instruction to Mr. Genet before cited, of *future*

danger from the rapidly growing power of the United States. But if France insists on the mutual guaranty, it will be necessary to aim at some modification of it.

The existing engagement is of that kind which, by writers on the law of nations, is called a general guaranty; of course the *casus fœderis* can never occur except in a *defensive* war. The nature of this obligation is understood to be, that when a war *really* and *truly defensive* exists, the engaging nation is bound to furnish an *effectual and adequate defence*, in co-operation with the power attacked: whence it follows, that the nation *may* be required, in some circumstances, to bring forward its whole force. The nature and extent of the succours demandable not being ascertained, engagements of this kind are dangerous on account of their uncertainty: there is always hazard of doing too much or too little, and of course of being involved in involuntary rupture.

Specific succours have the advantage of certainty, and are less liable to occasion war. On the other hand, a general guaranty allows a latitude for the exercise of judgment and discretion.

On the part of the United States, instead of troops or ships of war, it will be convenient to stipulate for a moderate sum of money or quantity of provisions, at the option of France: the provisions to be delivered at our own ports, in any future *defensive* wars. The sum of money, or its value in provisions, ought not to exceed two hundred thousand dollars a year, during any such wars. The reciprocal stipulation, on the part of France, may be to furnish annually the like sum of money, or an equivalent in military stores and cloathing for troops, at the option of the United States, to be delivered in the ports of France.

Particular caution, however, must be used, in discussing this subject, not to admit any claims, on the ground of the guaranty, in relation to the existing war; as we do not allow that the *casus fœderis* applies to it. And if the war should continue after your arrival in France, and the question of the guaranty should not be

mentioned on her part, you may yourselves be silent on the subject, if you deem it most prudent.

It will be proper here to notice such articles of the treaty of amity and commerce, between the United States and France, as have been differently construed by the two governments, or which it may be expedient to amend or explain.

ARTICLE 2. The assent of the United States, in their treaty with Great-Britain, to the doctrine of the law of nations respecting enemies' property in neutral ships, and ship timber and naval stores, and in some cases provisions, as contraband of war, the French Government has chosen to consider as a voluntary *grant of favours*, in respect to commerce and navigation, to Great-Britain, and that consequently the same favours have become common to France. This construction is so foreign from our ideas of the meaning and design of this article, it shews the necessity of reviewing all the articles, and however clear they may appear, of attempting to obviate future misconstructions, by declaratory explanations or a change of terms.

ARTICLE 5. France has repeatedly contended, that the imposition of fifty per cent. per ton, on french vessels arriving in the United States, is contrary to the fifth article of the treaty. The arguments in support of this pretension are unknown; but it is presumed to be unfounded. The reciprocal right of laying "duties or imports of what nature soever," equal to those imposed on the most favoured nations, and without any other restrictions, seems to be clearly settled by the third and fourth articles. The fifth article appears to have been intended merely to define or qualify the rights of american vessels in France. It is however desirable that the question be understood, and all doubt concerning it removed. But the introduction of a principle of discrimination between the vessels of different foreign nations, and in derogation of the powers of Congress to raise revenue by uniform duties on any objects whatever, cannot be hazarded. The naturalization of french vessels will of course be considered as inadmissible.

ARTICLE 8. The stipulation of doing us good offices, to secure peace to the United States with the barbarity powers, has never yet procured us any advantage. If therefore the French Government lays any stress on this stipulation, as authorizing a claim for some other engagement from us in favour of France, it may be abandoned ; and especially if its abrogation can be applied as a set-off against some existing french claim.

ARTICLE 14. If the alterations already proposed are made in the 23d and 24th articles, then the 14th article, as before observed, must be abolished.

ARTICLE 17th. The construction put on this article, by the Government of the United States is conceived to be reasonable and just, and is therefore to be insisted on. The tribunals of the respective countries will consequently be justified in taking cognizance of all captures made within their respective jurisdictions ; or by illegal privateers ; and those of one country will be deemed illegal which are fitted out in the country of the other remaining neutral : seeing to permit such arming would violate the neutral duties of the latter.

It will be expedient to fix explicitly the reception to be given to *public ships of war* of all nations. The french ministers have demanded, that the public ships of the enemies of France, which at any time, and in any part of the world, had made prize of a french vessel, should be excluded from the ports of the United States ; although they brought in no prize with them. In opposition to this demand, we have contended that they were to be excluded *only* when they came in with french prizes. And the kind of asylum to be afforded in all other circumstances, is described in Mr. Jefferson's letter to Mr. Hammond, dated the 9th of September, 1793, in the following words : " Thus then, the *public ships of war* of both nations [english and french] enjoy " a perfect equality in our ports ; 1st, in cases of urgent necessity ; 2d, in cases of comfort or convenience ; and 3d, in the time they choose to continue." And such shelter and accommodation are due to the

public ships of all nations, on the principle of hospitality among friendly nations.

It will also be expedient explicitly to declare that the right of asylum stipulated for the armed vessels of France and their prizes, gives no right to make sale of those prizes.

But when prize ships are so disabled as to be incapable of putting to sea again, until refitted, and when they are utterly disabled, some provision is necessary relative to their cargoes. Both cases occurred last year. The government permitted, though with hesitation and caution, the cargoes to be unloaded, one of the vessels to be repaired, and part of the prize goods sold, to pay for the repairs, and the cargo of the vessel that was found unfit ever to go to sea again, was allowed to be exported as *prize goods*, even in neutral bottoms. The doubts on these occasions arose from the 24th article of the british treaty, forbidding the sale of the prizes of privateers, or the exchanging of the same in any manner whatever. But as french prizes were entitled to an asylum in our ports, it was conceived to be a reasonable construction of it, to allow of such proceedings as those above mentioned, to prevent the total loss of vessels and cargoes. The 25th article of the british treaty demands attention; as it is therein stipulated, that no future treaty shall be made that shall be inconsistent with that or the 24th article. Another doubt arose, whether the british treaty did not, in good faith, require the prohibition of the sale of prizes made by the *national ships* of France, as well as of those made by her privateers; especially seeing our treaty with France gave her no right to sell any prizes whatever: but upon the whole, it was conceived that the United States having before allowed the sale of prizes, and the prohibition in the 24th article of the treaty being distinctly pointed against the sale of the prizes of *privateers*, it was thought proper to permit the former practice to continue, until the Executive should make and publish a prohibition of the sale of all prizes, or that Congress should pass a prohibitory law.

ARTICLE 22d. If in new modelling the treaty with France, the total prohibition of the sale of prizes in the ports of the party remaining neutral should not be agreed on, at least the right of each power to make at its pleasure such prohibition, whether they are prizes of national ships or privateers, should be acknowledged, for the reason more than once suggested—to prevent a repetition of claims upon unfounded constructions; such as under the present article, that a *prohibition* to an *enemy* of either party, is a *grant* to the *other* of the thing forbidden.

ARTICLES 23d and 24th. These have been already considered, and the alterations proposed have been mentioned.

There have been so many unjust causes and pretences assigned for capturing and confiscating american vessels, it may perhaps be impossible to guard against a repetition of them in any treaty which can be devised. To state the causes and pretences that have been already advanced by the Government of France, its agents and tribunals, as the grounds of the capture and condemnation of american vessels and cargoes, would doubtless give pain to any man of an ingenuous mind, who should be employed on the part of France to negotiate another treaty, or a modification of the treaties which exist. It is not desired, therefore, to go farther into detail on these matters, than shall be necessary to guard, by explicit stipulations, against future misconstructions and the mischiefs they will naturally produce.

Under pretence that certain ports were surrendered to the English by the treachery of the french and dutch inhabitants, Victor Hugues and Lebas, the special agents of the Executive Directory, at Guadaloupe, have declared that all neutral vessels bound to or from such ports shall be good prize.

Under the pretence the British were taking all neutral vessels bound to or from french ports, the french agents at St. Domingo (Santhonax and others) decreed that all *american* vessels bound to or from english ports,

should be captured ; and they have since declared such captured vessels to be good prize. The french consuls in Spain have, on the same ground, condemned a number of american vessels, merely because they were destined to, or coming from an english port.

Under the pretence, that the sea-letters or passports prescribed by the commercial treaty for the mutual advantage of the merchants and navigators of the two nations, to save their vessels from detention and other vexations, when met with at sea, by presenting so clear a proof of the property, are an indispensable document to be found on board, the French confiscate american vessels destitute of them, even when they acknowledge the property to be american.

Because horses and their military furniture, when destined to any enemy's port, are by the 24th article of the commercial treaty declared contraband, and as such by themselves only liable to confiscation, Hugues and Lebas decreed all *neutral vessels*, having horses or any other contraband goods on board, should be good prize ; and they accordingly condemned vessels and cargoes.

The ancient ordinances of the french monarchs required a variety of papers to be on board neutral vessels, the want of any one of which is made a cause of condemnation ; although the 25th article of the commercial treaty mentions what certificates shall accompany the merchant vessels and cargoes of each party, and which, by every reasonable construction, ought to give them protection.

It will therefore be advisable to guard against abuses by descending to particulars : to describe the ships papers which shall be required, and to declare that the want of any other shall not be a cause for confiscation : to fix the mode of manning vessels as to the officers, and the proportion of the crews who shall be citizens ; endeavouring to provide, in respect to american vessels, that more than one third may be foreigners. This provision will be important to the Southern States, which have but few native seamen.

The marine ordinances of France will show what

regulations have been required to be observed by allied as well as neutral powers in general to ascertain and secure the property of neutrals. Some of these regulations may be highly proper to be adopted ; while others may be inconvenient and burthensome. Your aim will be to render the documents and formalities as few and as simple as will consist with a fair and regular commerce.

ARTICLES 25 and 27. These two articles should be rendered conformable to each other. The 27th says, that after the exhibition of the *passport*, the vessel shall be allowed to pass without molestation or search, without giving her chace, or forcing her to quit her intended course. The 25th requires that besides the *passports*, vessels shall be furnished with certain *certificates*, which of course must also be exhibited. It will be expedient to add, that if in the face of such evidence, the armed vessel will carry the other into port, and the papers are found conformable to treaty, the captors shall be condemned in all the charges, damages and interests thereof, which they shall have caused. A provision of this nature is made in the eleventh article of our treaty with the United Netherlands.

ARTICLE 28. The prohibited goods here mentioned have no relation to contraband ; but merely to such as *by the laws of the country are forbidden to be exported*. Yet in the case of exporting horses from Virginia, which no law prohibited, in the winter of 1796, this article was applied by the french minister to *horses*, which by the french treaty are contraband of war. And a letter from the Minister to Victor Hugues and Lebas, informing them that the American Government refused to prevent such export of horses by the British, is made one ground for their decree above mentioned.

ARTICLE 30. The vessels of the United States ought to be admitted into the ports of France in the same manner as the vessels of France are admitted into the ports of the United States. But such a stipulation ought not to authorize the admission of vessels of either party into the ports of the other, into which the ad-

mission of all foreign vessels shall be forbidden by the laws of France and of the United States, respectively. With this restriction, the principles of the 14th article of the treaty with Great Britain afford a liberal and unexceptionable precedent. A restriction like that here referred to will be found in the first paragraph of the third article of the british treaty.

The commerce to the french colonies in the East and West-Indies, will doubtless be more or less restricted, according to the usage of other european nations. Yet on account of the disarranged condition of the french navigation, probably a large latitude of trade with their colonies will be readily permitted for a term of years : and perhaps the mutual advantages thence resulting will be found so great as to induce afterwards a prolongation of that term, to which the course or habit of business may contribute.

While between the United States and France there shall subsist a perfect reciprocity in respect to commerce, we must endeavour to extend our trade to her colonies to as many articles as possible. Of these the most important are provisions of all kinds, as beef, pork, flour, butter, cheese, fish, grain, pulse, live stock, and every other article serving for food, - which is the produce of the country, horses, mules, timber, planks, and wood of all kinds, cabinet ware and other manufactures of the United States ; and to obtain in return all the articles of the produce of those colonies, without exception, at least to the value of the cargoes carried to those colonies.

There have been different constructions of the consular convention. The French have contended for the execution of their consular decisions, by the marshall or other officer of the United States ; and their minister of justice has formally stated, in a report to the minister of foreign affairs, that the judicial sentences of the american consuls in France, will be executed by certain officers of justice in that country. The legal opinion of the law officers of the United States, which

the government has adopted, opposes such a construction. The French have also contended, that deserters from french vessels ought to be apprehended by the judicial officers of the United States, upon other evidence than the original shipping paper, or *rôle d'équipage*; whereas the district judges have insisted that the consular convention requires the original rôle to be produced. This claim was lately revived by the consul-general of the French Republic. The correspondence on this occasion will be joined to the other documents which accompany these instructions.

The United States cannot consent to the erecting of foreign tribunals within their jurisdiction. We consider the judicial authority of consuls, as described in the consular convention, to be voluntary, not compulsory, in the country where they reside; and that their decisions, if not obeyed by the parties respectively, must be enforced by the laws of their proper country; and such a provision you will see has been made in France, where a penalty of 1400 livres is imposed on the citizen who refuses obedience to a consular decision in a foreign state.

The consular convention will expire in about four years; and if any great difficulties arise in settling the terms of a new one, that which exists must take its course: but if the French Government should be silent on the subject of the consular convention, silence may be observed on your part.

The ports of the United States being frequented by the vessels of different belligerent powers, it became necessary to regulate the times of their sailing. The President, therefore, adopted what was understood to be the received rule in Europe; and ordered, that after the sailing of a vessel of one of the belligerent powers, twenty four hours should elapse before an armed vessel of the enemy of the former should set sail. This rule has not been duly respected by the armed vessels of France and Great Britain.

As the tranquility of the United States requires, that no hostile movements be commenced within their jurisdiction ; and the interests of commerce demand an entire freedom to the departure of vessels from their ports, it may be expedient expressly to recognize the above mentioned rule.

It will also be expedient to agree on the extent of territorial jurisdiction on the sea-coast ; and in what situation bays and sounds may be said to be land-locked, and within the jurisdiction of the sovereign of the adjacent country.

On the supposition that a treaty will be negotiated to alter and amend the treaties which now exist between France and the United States, the following leading principles, to govern the negotiation, are subjoined.

1. Conscious integrity authorizes the government to insist, that no blame or censure be directly or indirectly imputed to the United States. But on the other hand, however exceptionable, in the view of our own government, and in the eyes of an impartial world, may have been the conduct of France, yet she may be unwilling to acknowledge any aggressions ; and we do not wish to wound her feelings, or to excite resentment. It will therefore be best to adopt, on this point, the principle of the british treaty, and “ terminate our differences, in such manner, as, without referring to the merits of our respective complaints and pretensions, may be the best calculated to produce mutual satisfaction, and good understanding.”

2. That no aid be stipulated in favour of France during the present war.

3. That no engagement be made inconsistent with the obligations of any prior treaty.

4. That no restraint on our lawful commerce with any other nation be admitted.

5. That no stipulation be made, under colour of which, tribunals can be established within our jurisdiction, or personal privileges claimed by french citizens,

incompatible with the complete sovereignty and independence of the United States, in matters of policy, commerce and government.

It will be expedient to limit the duration of the treaty to a term of from ten to twenty years. Such changes in the circumstances of the two parties are likely to happen within either of those periods, as to give one or both good reason to desire a change in the conditions of the treaty. From this limitation may be excepted such articles as are declaratory of a state of peace, or as are intended to regulate the conduct of the two nations at the commencement of, or during a state of war, or which are founded in morality and justice, and are in their nature of perpetual obligation. Of this kind may be considered the tenth article of the treaty with Great Britain; which therefore may very properly be introduced into the treaty with France.

Finally, the great object of the government being to do justice to France and her citizens, if in any thing we have injured them; to obtain justice for the multiplied injuries they have committed against us; and to preserve peace; your style and manner of proceeding will be such as shall most directly tend to secure these objects. There may be such a change of men and measures in France as will authorize, perhaps render politic, the use of strong language, in describing the treatment we have received. On the other hand, the French Government may be determined to frustrate the negociation, and throw the odium on this country; in which case, any thing like warmth and harshness would be made the pretext. If things remain in their present situation, the style of representation will unite, as much as possible, calm dignity with simplicity, force of sentiment with mildness of language, and be calculated to impress an idea of inflexible perseverance rather than of distrust or confidence.

With these instructions you will receive the following documents.

1. The printed state papers containing the corres-

pendence between the Secretary of State and the french minister, Mr. Genet.

2. The letter dated January 16th, 1797, from the Secretary of State to General Pinckney, and the documents therein referred to, in which all the known complaints of the French Government, since the recall of Mr. Genet, are exhibited and discussed.

3. A report from the Secretary of State to the House of Representatives, dated the 27th of February, 1797, exhibiting the state of american claims which had been presented to the French Government (but few of which had been satisfied) together with some further information relative to the depredations, by the officers and people of that nation on the commerce of the United States.

4. A report made by the Secretary of State to the President of the United States, on the 21st of June, 1797, and by him laid before Congress on the 22d.

5. Certain original depositions, protests, and other papers relative to the french spoliations on the commerce, and personal insults and injuries to the citizens of the United States.

6. The documents laid before the House of Representatives the 17th of May, 1797, relative to General Pinckney's mission to Paris, and comprehending some papers relative to the capture and condemnation of american vessels by the French.

7. The correspondence with the french consul-general Létombe relative to the consular convention.

TIMOTHY PICKERING,
Secretary of State.

Department of State, Philadelphia, July 15, 1797.

Lettres de Créance des Envoyés des Etats-Unis près la République Française, en Date du 13 Juillet, 1797.

Letters of Credence and Full Powers to the Envoys from the United States to the French Republic.

LETTERS OF CREDENCE.

*John Adams, President of the United States of America,
To the Executive Directory of the French Republic.*

Citizens Directors,

Desirous of terminating all differences between the United States of America and the French Republic, and of restoring that harmony and good understanding, and that commercial and friendly intercourse, which from the commencement of their political connection, until lately, have so happily subsisted, I have nominated, and by and with the advice and consent of the Senate of the United States, appointed Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, distinguished citizens of these states, jointly and severally, envoys extraordinary and ministers plenipotentiary to the French Republic, for the purpose of accomplishing the great objects above-mentioned: wherefore I pray you, citizens directors, to give full credence to what they and each of them shall say to you in these respects, in behalf of the United States, and also when they shall assure you of the sincerity of our wishes for the welfare of the French Republic.

Given under my hand, and the great seal of the United States of America, at Philadelphia, the thirteenth day of July, in the year 1797, and of the independence of these states the twenty-second.

JOHN ADAMS.

By the President of the United States.

TIMOTHY PICKERING, Secretary of State.

PLEINS-POUVOIRS EN DATE DU 22 JUIN, 1797.

FULL POWERS.

*John Adams, President of the United States of America,
To all whom these presents shall concern—Greeting :*

Know ye, That for the purpose of terminating all differences between the United States of America and the French Republic, and of restoring and confirming perfect harmony and good understanding, and re-establishing a commercial and friendly intercourse between them, and reposing a special trust and confidence in the integrity, prudence and abilities of Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, citizens of the said United States, I have nominated, and, by and with the advice and consent of the Senate, appointed the said Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, jointly and severally, envoys extraordinary and ministers plenipotentiary of the United States to the French Republic; hereby giving and granting to them and any and each of them, full power and authority, and also a general and special command, for and in the name of the United States to meet and confer with the Ministers, commissioners or deputies of the French Republic, being furnished with the like full powers, whether separately or jointly, and with them to treat, consult and negotiate, of and concerning all claims, and all matters and causes of difference, subsisting between the United States and the French Republic, for the purpose of satisfying and terminating the same in a just and equitable manner; and also of and concerning the general commerce between the United States and France, and all other the dominions of the French Republic; and to conclude and sign a treaty or treaties, convention or conventions, touching the premises; transmitting the same to the President of the United States of America for his final ratification, by and with the advice and consent of the Senate of the United States, if such advice and consent shall be given.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed.

Given under my hand at the City of Philadelphia, the twenty-second day of June, in the year of our Lord one thousand seven hundred and ninety-seven, and of the Independence of the United States of America, the twenty-first.

JOHN ADAMS.

By the President of the United States,

TIMOTHY PICKERING, Secretary of State.

Note du Secrétaire d'Etat des Etats-Unis, concernant la Suppression des Noms de certaines Personnes, désignées dans les Dépêches par les lettres W. X. Y. Z.

Department of State, April 3d, 1798.

The names designated by the letters W. X. Y. Z. in the following copies of letters from the Envoys of the United States to the French Republic, are, in the originals, written at full length, in cyphers. For the same reason that single letters are thus taken to designate certain persons named in the letters, other words descriptive of them are omitted.

TIMOTHY PICKERING.

DÉPÊCHES DES ENVOYÉS D'AMÉRIQUE,
ADRESSÉES AU SECRÉTAIRE D'ÉTAT DES
ÉTATS-UNIS.

DISPATCHES FROM THE ENVOYS TO THE SECRETARY
OF STATE.

No. 1.

Dépêche du 22 Octobre, 1797, par laquelle les Ministres Américains annoncent au Secrétaire d'Etat des Etats-Unis leur Arrivée à Paris, et l'instruisent de l'Ouverture qui leur avait été faite par de prétendus Agens secrets de M. de Talleyrand, relativement au Désaveu à donner par le Gouvernement Fédéral à de certains Passages du Discours du Président des Etats-Unis du 16 Mai, 1797, et concernant un Emprunt de 32 Millions de Florins d'Hollande, et un Cadeau de 50,000 Louis d'or à fournir au Directoire Exécutif, avant que les Ministres d'Amérique puissent être admis à son Audience, ou qu'ils puissent être reconnus diplomatiquement, à l'Effet de traiter avec eux.

Paris, October 22d, 1797.

Dear Sir,

All of us having arrived at Paris on the evening of the fourth instant, on the next day we verbally and unofficially informed the minister of foreign affairs therewith, and desired to know when he would be at leisure to receive one of our secretaries with the official notification : he appointed the next day at two o'clock ; when Major Rutledge waited on him with the following letter :

Citizen Minister,

The United States of America being desirous of terminating all differences between them and the French Republic, and of restoring that harmony and good understanding, and that commercial and friendly intercourse, which from the commencement of their political connection until lately have so happily subsisted, the President has nominated, and by and with the advice

and consent of the Senate has appointed us, the undersigned, jointly and severally, Envoys Extraordinary and Ministers Plenipotentiary to the French Republic, for the purpose of accomplishing these great objects. In pursuance of such nomination and appointment, and with such view having come to Paris, we wish, Citizen Minister, to wait on you at any hour you will be pleased to appoint, to present the copy of our letters of credence; and whilst we evince our sincere and ardent desire for the speedy restoration of friendship and harmony between the two republics, we flatter ourselves with your concurrence in the accomplishment of this desirable event. We request you will accept the assurances of our perfect esteem and consideration.

Paris, October 6th, in the 22d year of American independence.

(Signed)

CHARLES COTESWORTH PINCKNEY.

JOHN MARSHALL.

ELBRIDGE GERRY.

To this letter the minister gave a verbal answer, that he would see us the day after the morrow (the 8th) at one o'clock. Accordingly at that hour and day we waited on the minister at his house, where his office is held, when, being informed he was not at home, the secretary-general of the department told Major Rutledge, that the minister was obliged to wait on the Directory, and requested we would suspend our visit till three o'clock. At which hour we called. The minister we found was then engaged with the Portuguese minister, who retired in about ten minutes, when we were introduced and produced the copy of our letters of credence, which the minister perused and kept. He informed us, "that the Directory had required him to make a report relative to the situation of the United States with regard to France, which he was then about, and which would be finished in a few days, when he would let us know what steps were to follow." We asked if cards of hospitality were in the mean time ne-

cessary ? He said they were, and that they should be delivered to us ; and he immediately rung for his secretary and directed him to make them out. The conversation was carried on by him in French, and by us in our own language.

The next day cards of hospitality were sent to us and our secretaries, in a style suitable to our official character.

On Saturday the 14th, Major Mountflorencia informed General Pinckney, that he had a conversation with Mr. Osmond, the private and confidential secretary of the minister of foreign affairs, who told him, that the Directory were greatly exasperated at some parts of the President's speech, at the opening of the last session of congress, and would require an explanation of them from us. The particular parts were not mentioned. In another conversation on the same day the secretary informed the major, that the minister had told him it was probable we should not have a public audience of the Directory till such time as our negotiation was finished, that probably persons might be appointed to treat with us, but they would report to him, and he would have the direction of the negotiation. The Major did not conceal from Mr. Osmond his intention to communicate these conversations to us.

In the morning of October the eighteenth, Mr. W. . . . of the house of called on General Pinckney and informed him, that a Mr. X. who was in Paris and whom the General had seen was a gentleman of considerable credit and reputation and that we might place great reliance on him.

In the evening of the same day, Mr. X. called on General Pinckney, and after having sat some time whispered him, that he had a message from Mr. Talleyrand to communicate, when he was at leisure. General Pinckney immediately withdrew with him into another room ; and when they were alone Mr. X. said, that he was charged with a business in which he was a

novice; that he had been acquainted with Mr. Talleyrand and that he was sure he had a great regard for (America) and its citizens; and was very desirous, that a reconciliation should be brought about with France; that to effectuate that end, he was ready, if it was thought proper, to suggest a plan, confidentially, that Mr. Talleyrand expected would answer the purpose. General Pinckney said he should be glad to hear it. M. X. replied, that the Directory, and particularly two of the members of it, were exceedingly irritated at some passages of the President's speech, and desired that they should be softened; and that this step would be necessary previous to our reception: that besides this, a sum of money was required for the pocket of the Directory and ministers, which would be at the disposal of Mr. Talleyrand: and that a loan would also be insisted on. Mr. X. said, if we acceded to these measures, Mr. Talleyrand had no doubt that all our differences with France might be accommodated. On enquiry, Mr. X. could not point out the particular passages of the speech that had given offence, nor the quantum of the loan, but mentioned that the *douceur* for the pocket was twelve hundred thousand livres, about fifty thousand pounds sterling. General Pinckney told him, his colleagues and himself, from the time of their arrival here, had been treated with great slight and disrespect; that they earnestly wished for peace and reconciliation with France; and had been entrusted by their country with very great powers to obtain these ends, on honorable terms: that with regard to the propositions made, he could not even consider of them before he had communicated them to his colleagues: that after he had done so, he should hear from him. After a communication and consultation had, it was agreed, that General Pinckney should call on Mr. X. and request him to make his propositions to us all; and for fear of mistakes or misapprehension, that he should be requested to reduce the heads into writing. Accordingly, on the morning of October the nineteenth, General Pinck-

ney called on Mr. X. who consented to see his colleagues in the evening, and to reduce his propositions to writing. He said his communication was not immediately with Mr. Talleyrand, but through another gentleman, in whom Mr. Talleyrand had great confidence : this proved afterwards to be Mr. Y.

At six in the evening Mr. X. came and left with us the first set of propositions ; which translated from the French, are as follows ; “ A person who possesses the confidence of the Directory, on what relates to the affairs of America, convinced of the mutual advantages which would result from the re-establishment of the good understanding between the two nations, proposes to employ all of his influence to obtain this object. He will assist the commissioners of the United States in all the demands which they may have to make from the Government of France, inasmuch as they may not be contradictory to those which he proposes himself to make, and of which the principal will be communicated confidentially. It is desired that in the official communications there should be given a softening turn to a part of the President's speech to Congress, which has caused much irritation. It is feared that in not satisfying certain individuals in this respect, they may give way to all their resentment. The nomination of commissioners will be consented to on the same footing as they have been named in the treaty with England, to decide on the reclamations which individuals of America may make on the government of France, or on french individuals. The payment which, agreeably to the decisions of the commissioners, shall fall to the share of the French Government, are to be advanced by the American Government itself. It is desired that the funds which by this means shall enter again into the American trade, should be employed in new supplies for the french colonies. Engagements of this nature on the part of individuals reclaiming will always hasten, in all probability, the decisions of the french commissioners : and perhaps it may be desired that this clause should

make a part of the instructions which the government of the United States should give to the commissioners they may choose. The French Government desires, besides, to obtain a loan from the United States ; but so that that should not give any jealousy to the English Government, nor hurt the neutrality of the United States. This loan shall be masked by stipulating, that the Government of the United States consents to make the advances for the payment of the debts contracted by the agents of the French Government with the citizens of the United States ; and which are already acknowledged, and the payment ordered by the Directory, but without having been yet effectuated. There should be delivered a note to the amount of these debts. Probably this note may be accompanied by ostensible pieces, which will guarantee to the agents the responsibility of the United States in case any umbrage should cause an enquiry. There shall also be first taken from this loan certain sums for the purpose of making the customary distributions in diplomatic affairs." The person of note mentioned in the minutes, who had the confidence of the Directory, he said, before us all, was Mr. Talleyrand. The amount of the loan he could not ascertain precisely, but understood it would be according to our ability to pay. The sum which would be considered as proper, according to diplomatic usage, was about twelve hundred thousand livres. He could not state to us what parts of the President's speech were excepted to, but said he would enquire and inform us. He agreed to breakfast with Mr. Gerry the morning of the 21st, in order to make such explanations as we had then requested, or should think proper to request : but on the morning of the 20th Mr. X. called and said, that Mr. Y. the confidential friend of Mr. Talleyrand, instead of communicating with us through Mr. X. would see us himself and make the necessary explanations. We appointed to meet him the evening of the twentieth at seven o'clock, in General Marshall's room. At seven Mr. Y. and Mr. X. entered ; and the first mentioned

gentleman, being introduced to us as the confidential friend of Mr. Talleyrand, immediately stated to us the favourable impressions of that gentleman towards our country, impressions which were made by the kindness and civilities he had personally received in America: that impressed by his solicitude to repay these kindnesses, he was willing to aid us in the present negotiation by his good offices with the Directory, who were, he said, extremely irritated against the government of the United States, on account of some parts of the President's speech, and who had neither acknowledged nor received us, and consequently have not authorized Mr. Talleyrand to have any communications with us. The minister therefore could not see us himself, but had authorized his friend Mr. Y. to communicate to us certain propositions, and to receive our answer to them; and to promise on his part, that if we would engage to consider them as the basis of the proposed negotiation, he would intercede with the Directory to acknowledge us, and to give us a public audience. Mr. Y. stated to us explicitly and repeatedly, that he was clothed with no authority; that he was not a diplomatic character; that he was not he was only the friend of Mr. Talleyrand and trusted by him; that with regard to himself he had and that he earnestly wished well to the United States. He then took out of his pocket a french translation of the President's speech, the parts of which objected to by the Directory were marked, agreeably to our request to Mr. X. and are contained in the exhibit A. Then he made us the second set of propositions, which were dictated by him and written by Mr. X. in our presence, and delivered to us, and which, translated from the french, are as follows. "There is demanded a formal disavowal in writing, declaring that the speech of the citizen President Barras did not contain any thing offensive to the government of the United States, nor any thing which deserved the epithets contained in the whole paragraph: Secondly, reparation is demanded for the article by which it shall be

declared, that the decree of the Directory there mentioned did not contain any thing contrary to the treaty of 1778, and had none of those fatal consequences, that the paragraph reproaches to it : Thirdly, it is demanded, that there should be an acknowledgment in writing of the depredations exercised on our trade by the English and French privateers : Fourthly, the government of France, faithful to the profession of public faith which it has made not to intermeddle in the internal affairs of foreign governments with which it is at peace, would look upon this paragraph as an attack upon its loyalty, if this was intended by the President. It demands, in consequence, a formal declaration, that it is not the government of France, nor its agents, that this paragraph meant to designate : In consideration of these reparations, the French Republic is disposed to renew with the United States of America, a treaty which shall place them reciprocally in the same state that they were in 1778 : By this new treaty France shall be placed with respect to the United States, exactly on the same footing as they stand with England, in virtue of the last treaty which has been concluded between them. A secret article of this new treaty would be a loan to be made by the United States to the French Republic : and once agreed upon the amount of the loan, it would be endeavoured to consult the convenience of the United States with respect to the best method of preventing its publicity." On reading the speech, Mr. Y. dilated very much upon the keenness of the resentment it had produced, and expatiated largely on the satisfaction he said was indispensably necessary as a preliminary to negociation. " But, said he, gentlemen, I will not disguise from you, that this satisfaction being made, the essential part of the treaty remains to be adjusted : *il faut de l'argent—il faut beaucoup d'argent :*" *you must pay money, you must pay a great deal of money.* He spoke much of the force, the honor and the jealous republican pride of France : and represented to us strongly the advantages which we should derive from the neutrality thus to be

purchased. He said, that the receipt of the money might be so disguised as to prevent its being considered as a breach of neutrality by England ; and thus save us from being embroiled with that power. Concerning the twelve hundred thousand livres little was said ; that being completely understood, on all sides, to be required for the officers of government, and therefore needing no further explanation. 'These propositions, he said, being considered as the admitted basis of the proposed treaty, Mr. Talleyrand trusted that, by his influence with the Directory, he could prevail on the government to receive us. We asked whether we were to consider it as certain, that without a previous stipulation to the effect required, we were not to be received. He answered, that Mr. Talleyrand himself was not authorized to speak to us the will of the Directory, and consequently could not authorize him. The conversation continued until half after nine, when they left us ; having engaged to breakfast with Mr. Gerry the next morning,

October the 21st, Mr. X. came before nine o'clock : Mr. Y. did not come until ten—he had passed the morning with Mr. Talleyrand. After breakfast the subject was immediately resumed. He represented to us, that we were not yet acknowledged or received : that the Directory were so exasperated against the United States, as to have come to a determination to demand from us, previous to our reception, those disavowals, reparations and explanations, which were stated at large last evening. He said that Mr. Talleyrand and himself were extremely sensible of the pain we must feel in complying with this demand ; but that the Directory would not dispense with it : that therefore we must consider it as the indispensable preliminary to obtain our reception ; unless we could find the means to change their determination in this particular : that if we satisfied the Directory in these particulars, a letter would be written to us to demand the extent of our powers, and to know whether we were authorized to place them precisely on the

same footing with England; whether, he said, our full powers were really and substantially full powers: or, like those of Lord Malmesbury, only illusory powers; that, if to this demand our answer should be affirmative, then France would consent that commissioners should be appointed to ascertain the claims of the United States, in like manner as under our treaty with England: but from their jurisdiction must be withdrawn those which were condemned for a want of a rôle d'équipage; that being a point on which Merlin, while minister of justice, had written a treatise, and on which the Directory were decided. There would however be no objection to our complaining of these captures, in the course of the negotiation; and if we could convince Merlin by our reasoning, the minister would himself be satisfied with our so doing. We required an explanation of that part of the conversation, in which Mr. Y. had hinted at our finding means to avert the demand concerning the President's speech. He answered, that he was not authorized to state those means, but that we must search for them and propose them ourselves. If however we asked his opinion as a private individual, and would receive it as coming from him, he would suggest to us the means which in his opinion would succeed. On being asked to suggest the means, he answered, money; that the Directory were jealous of its own honor and of the honor of the nation; that it insisted on receiving from us the same respect with which we had treated the king; that this honor must be maintained in the manner before required, unless we substituted in the place of those reparations something perhaps more valuable, that was money. He said further, that if we desired him to point out the sum which he believed would be satisfactory, he would do so. We requested him to proceed; and he said, that there were thirty-two millions of florins of Dutch inscriptions, worth ten shillings in the pound, which might be assigned to us at twenty shillings in the pound: and he proceeded to state to us the certainty, that after a peace, the Dutch government would repay us the money; so

that we should ultimately lose nothing ; and the only operation of the measure would be, an advance from us to France of thirty-two millions, on the credit of the Government of Holland. We asked him, whether the fifty thousand pounds sterling, as a douceur to the Directory, must be in addition to that sum. He answered in the affirmative. We told him, that on the subject of the treaty, we had no hesitation in saying that our powers were ample : that on the other points proposed to us we would retire into another room, and return in few minutes with our answer.

We committed immediately to writing the answer we proposed, in the following words : “ Our powers respecting a treaty are ample : but the proposition of a loan in the form of Dutch inscriptions, or in any other form, is not within the limits of our instructions ; upon this point therefore the government must be consulted : one of the American ministers will, for the purpose, forthwith embark for America : provided the Directory will suspend all further captures on American vessels, and will suspend proceedings on those already captured, as well where they have been already condemned, as where the decisions have not yet been rendered ; and that where sales have been made, but the money not yet received by the captors, it shall not be paid until the preliminary questions, proposed to the ministers of the United States, be discussed and decided ; ” which was read as a verbal answer ; and we told them they might copy it, if they pleased, Mr. Y. refused to do so : his disappointment was apparent : he said we treated the money part of the proposition as if it had proceeded from the Directory ; whereas in fact it did not proceed even from the minister, but was only a suggestion from himself, as a substitute to be proposed by us, in order to avoid the painful acknowledgment that the Directory had determined to demand of us. It was told him, that we understood that matter perfectly : that we knew the proposition was in form to be ours ; but that it came substantially from the minister. We asked what

had led to our present conversation ? And general Pinckney then repeated the first communication from Mr. X. (to the whole of which that gentleman assented) and we observed that those gentlemen had brought no testimonials of their speaking any thing from authority : but that relying on the fair characters they bore, we had believed them when they said they were from the minister, and had conversed with them in like manner, as if we were conversing with Mr. Talleyrand himself ; and that we could not consider any suggestion Mr. Y. had made, as not having been previously approved of : but yet, if he did not chuse to take a memorandum in writing of our answer, we had no wish that he should do so ; and further if he chose to give the answer to his proposition the form of a proposition from ourselves we could only tell him, that we had no other proposition to make, relative to any advance of money on our part : that America had sustained deep and heavy losses by French depredations on our commerce, and that France had alleged so (many) complaints against the United States, that on those subjects we came fully prepared, and were not a little surprised to find France unwilling to hear us : and making demands upon us which could never have been suspected by our government, and which had the appearance of our being the aggressing party. Mr. Y. expressed himself vehemently on the resentment of France ; and complained, that instead of our proposing some substitute for the reparations demanded of us, we were stipulating certain conditions to be performed by the Directory itself ; that he could not take charge of such propositions ; and that the Directory would persist in its demand of those reparations which he at first stated. We answered that we could not help it ; it was for the Directory to determine what course its own honor and the interests of France required it to pursue : it was for us to guard the interests and honor of our country. Mr. Y. observed, that we had taken no notice of the first proposition, which was, to know whether we were ready to make the disavowal, reparations and explanations concerning the President's speech,

We told him that we supposed it to be impossible, that either he or the minister could imagine, that such a proposition could require an answer : that we did not understand it as being seriously expected ; but merely as introductory to the subjects of real consideration.

He spoke of the respect which the Directory required, and repeated, that it would exact as much as was paid to the ancient Kings. We answered that America had demonstrated to the world, and especially to France, a much greater respect for her present government than for her former monarchy ; and that there was no evidence of this disposition which ought to be required, that we were not ready to give. He said that we should certainly not be received ; and seemed to shudder at the consequences. We told him, that America had made every possible effort to remain on friendly terms with France ; that she was still making them : that if France would not hear us ; but would make war on the United States ; nothing remained for us, but to regret the unavoidable necessity of defending ourselves.

The subject of our powers was again mentioned ; and we told him, that America was solicitous to have no more misunderstandings with any Republic, but especially with France ; that she wished a permanent treaty, and was sensible, that no treaty could be permanent, which did not comport with the interests of the parties ; and therefore that he might be assured, that our powers were such as authorized us to place France on equal ground with England, in any respects in which an inequality might be supposed to exist at present between them, to the disadvantage of France. The subject of the rôle d'équipage was also mentioned ; and we asked what assurance we could have, if France insisted on the right of adding to the stipulations of our treaty, or of altering them by municipal regulations, that any future treaty we could make should be observed. Mr. Y. said that he did not assert the principle of changing treaties by municipal regulations ; but that the Directory considered its regulation concerning the rôle d'équipage as comporting with the treaty. We observed to him, that

none of our vessels had what the French termed a rôle d'équipage, and that if we were to surrender all the property which had been taken from our citizens in cases where their vessels were not furnished with such a rôle, the government would be responsible to its citizens for the property so surrendered; since it would be impossible to undertake to assert, that there was any plausibility in the allegation, that our treaty required a rôle d'équipage.

The subject of disavowals, &c. concerning the President's speech was again mentioned; and it was observed, that the constitution of the United States authorized and required our President to communicate his ideas on the affairs of the nation; that, in obedience to the constitution, he had done so; that we had not power to confirm or invalidate any part of the President's speech; that such an attempt could produce no other effect than to make us ridiculous to the government and to the citizens at large of the United States; and to produce, on the part of the President, an immediate disavowal and recal of us as his agents: that independent of this, all America was acquainted with the facts stated by the President; and our disavowing them would not change the public sentiment concerning them.

We parted with mutual professions of personal respect, and with full indications on the part of M. Y. of his expectation, that we should immediately receive the threatened letter.

The nature of the above communication will evince the necessity of secrecy; and we have promised Messrs. X. and Y. that their names shall in no event be made public.

We have the honor to be, with great respect and esteem, your most obedient humble servants,

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

P. S. October 27th, 1797. The definitive articles of peace are signed between the French Republic and

the Emperor; the particulars you will find in the public prints. The Portuguese Minister is ordered to quit France, as the treaty with Portugal has not been yet ratified by the Queen. The treaty itself is declared by the Directory to be void. Since our arrival at Paris the tribunal of cassation has rejected captain Scott's petition complaining of the condemnation of his vessel by the civil tribunal for the want of a rôle d'équipage. Mr. ——— in behalf of the owners of the american vessels, who have appealed in the last resort to the tribunal of cassation, informs, that notwithstanding all the arguments ——— made use of ——— to put off the hearing of the Rosanna, as a diplomatic case, 'till the issue of our negotiations is known, that case is set down for hearing and will come on the 29th or 30th inst. The same ——— also says, that it is obvious, that the tribunal have received instructions from the officers of the government to hasten their decisions, and that it was hardly worth while to ——— for all our petitions in cassation would be rejected. Our advocates ——— decline giving their sentiments on this subject ——— under an apprehension of committing themselves.

Col. Pickering, Secy. of the United States.

Passages du Discours du Président, dont il est Question dans la Dépêche No. 4; avec la Réponse du Directeur Barras à M. Monroe, lors de son Audience de Congé du Directoire.

Paragraphs of the PRESIDENT'S Speech, referred to in Letter No. 1. under title of exhibit A.

I. With this conduct of the French Government it will be proper to take into view the public audience, given to the late minister of the United States, on his taking leave of the Executive Directory. The speech of the President discloses sentiments more alarming than the refusal of a minister, because more dangerous to our independence and union, and at the same time studiously marked with indignities towards the government of

the United States. It evinces a disposition to separate the people of the United States from the government; to persuade them, that they have different affections, principles and interests from those of their fellow-citizens, whom they themselves have chosen to manage their common concerns, and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision, which shall convince France and the world, that we are not a degraded people, humiliated under a colonial spirit of fear, and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character and interest.

II. The diplomatic intercourse between the United States and France being at present suspended; the government has no means of obtaining official information from that country: nevertheless there is reason to believe that the Executive Directory passed a decree, on the 2d of March last, contravening in part the treaty of amity and commerce of 1778, injurious to our lawful commerce and endangering the lives of our citizens. A copy of this decree will be laid before you.

III. While we are endeavouring to adjust all our differences with France, by amicable negotiation, the progress of the war in Europe, the depredations on our commerce, the personal injuries to our citizens, and the general complexion of affairs render it my indispensable duty to recommend to your consideration effectual measures of defence.

IV. It is impossible to conceal from ourselves, or the world, what has been before observed, that endeavours have been employed to foster and establish a division between the government and people of the United States. To investigate the causes which have encouraged this attempt is not necessary. But to repel, by decided and united councils, insinuations so derogatory to the honor, and aggressions so dangerous to the constitution, union and even independence of the nation, is an indispensable duty.

Answer of M. Barras, President of the Executive Directory, to the Speech of Mr. MONROE, on taking leave, to which the Speech of the President of the United States refers.

M. le Ministre Plénipotentiaire des Etats-Unis d'Amérique.

En présentant aujourd'hui au Directoire Exécutif vos letters de rappel, vous donnez à l'Europe un spectacle bien étrange.

La France, riche de sa liberté, entourée du cortège de ses victoires, forte de l'estime de ses alliés, ne s'abaissera pas à calculer les suites de la condescendance du Gouvernement Américain pour les suggestions de ses anciens tyrans. . . . La République Française espère, au surplus, que les successeurs de Colombus, Ramhiph* et Penn, toujours fiers de leur liberté, n'oublieront jamais qu'ils la doivent à la France. . . . Ils peseront dans leur sagesse la magnanime bienveillance du peuple français avec les astucieuses caresses de quelques perfides qui méditent de le ramener à son antique esclavage. Assurez, M. le Ministre, le bon peuple Américain que, comme lui, nous adorons la liberté ; que toujours il aura notre estime, et qu'il trouvera, dans le peuple Français, la générosité républicaine qui sait accorder la paix comme elle sait faire respecter sa souveraineté.

Quant à vous, M. le Ministre plénipotentiaire, vous avez combattu pour les vrais intérêts de votre patrie. . . partez avec nos regrets. Nous rendons en vous un représentant à l'Amérique, et nous retenons le souvenir du citoyen dont les qualités personnelles honoraient ce titre.

* Probably intended for Raleigh.

No. 2.

Dépêche des Ministres Américains au Secrétaire d'Etat des Etats-Unis, en Date du 8 Novembre, 1797. Ils rendent compte de plusieurs entrevues qu'ils avaient eues avec les Agens Secrets de M. de Talleyrand, et avec M. de Talleyrand lui-même ;—les Agens Français continuent d'insister sur l'Argent à donner, et sur l'Emprunt à fournir ; et les Ministres Américains, de l'autre côté, demandent, pour Base de la Négociation, la Cessation des Hostilités contre le Commerce d'Amérique ; on donne d'ailleurs à entendre aux Ministres Plénipotentiaires que, s'ils accordent le Cadeau qu'on leur demande pour le Directoire, ils auront la Permission de rester à Paris, mais sans cependant être reconnus, ni reçus en leur Qualité diplomatique. On leur suggère de certaines Propositions (v. Pièce A.) qu'ils auraient à faire à M. de Talleyrand comme venant d'eux-mêmes. Les Ministres Américains y répondent, (v. Pièce B.) et prennent la Résolution de ne vouloir plus avoir de Communications indirectes avec le Gouvernement Français. Ils se montrent aussi inébranlables au Sujet de l'Emprunt qu'ils regardent comme contraire à la Neutralité que les Etats-Unis professent.

Paris, November 8th, 1797.

Dear Sir,

We now enclose you, in thirty-six quarto pages of cypher, and in eight pages of cyphered exhibits, the sequel to the details commenced in No. 1, dated the 22d of last month ; and have the honor to be, your most obedient humble servants,

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Colonel Pickering.

October 27th, 1797.

About twelve we received another visit from Mr. X. He immediately mentioned the great event announced

in the papers, and then said, that some proposals from us had been expected on the subject on which we had before conversed; that the Directory were becoming impatient, and would take a decided course with regard to America, if we could not soften them. We answered, that on that subject we had already spoken explicitly, and had nothing farther to add. He mentioned the change in the state of things which had been produced by the peace with the emperor, as warranting an expectation of a change in our system; to which we only replied, that this event had been expected by us, and would not in any degree affect our conduct. Mr. X. urged, that the Directory had, since this peace, taken a higher and more decided tone with respect to us, and all other neutral nations, than had been before taken; that it had been determined, that all nations should aid them, or be considered and treated as their enemies. We answered, that such an effect had already been contemplated by us as probable, and had not been overlooked when we gave to this proposition our decided answer; and further, that we had no powers to negotiate for a loan of money; that our government had not contemplated such a circumstance in any degree whatever; that if we should stipulate a loan, it would be a perfectly void thing, and would only deceive France, and expose ourselves. Mr. X. again expatiated on the power and violence of France: he urged the danger of our situation, and pressed the policy of softening them, and of thereby obtaining time. The present men, he said, would very probably not continue long in power; and it would be very unfortunate if those who might succeed, with better dispositions towards us, should find the two nations in actual war. We answered, that if war should be made on us by France, it would be so obviously forced on us, that on a change of men, peace might be made with as much facility as the present differences could be accommodated: we added, that all America deprecated a war with France; but that our present situation was more ruinous to us than a declared

war could be ; that at present our commerce was plundered unprotected ; but that if war was declared, we should seek the means of protection. Mr. X. said, he hoped we should not form a connection with Britain ; and we answered, that we hoped so too ; that we had all been engaged in our revolution war, and felt its injuries ; that it had made the deepest impression on us ; but that if France should attack us, we must seek the best means of self defence. Mr. X. again returned to the subject of money : Said he, gentlemen, you do not speak to the point ; it is money : it is expected that you will offer money. We said that we had spoken to that point very explicitly : we had given an answer. No, said he, you have not : what is your answer ? We replied ; it is no ; no ; not a six-pence. He again called our attention to the dangers which threatened our country, and asked, if it would not be prudent, though we might not make a loan to the nation, to interest an influential friend in our favour. He said we ought to consider what men we had to treat with ; that they disregarded the justice of our claims, and the reasoning with which we might support them ; that they disregarded their own colonies ; and considered themselves as perfectly invulnerable with respect to us ; that we could only acquire an interest among them by a judicious application of money ; and it was for us to consider, whether the situation of our country did not require that these means should be resorted to. We observed, that the conduct of the French Government was such as to leave us much reason to fear, that should we give the money, it would effect no good purpose, and would not produce a just mode of thinking with respect to us. Proof of this must first be given us. He said, that when we employed a lawyer, we gave him a fee, without knowing whether the cause could be gained or not ; but it was necessary to have one, and we paid for his services, whether those services were successful or not : so in the present state of things, the money must be advanced for the good offices the

individuals were to render, whatever might be the effect of those good offices. We told him there was no parallel in the cases ; that a lawyer, not being to render the judgment, could not command success ; he could only endeavour to obtain it ; and consequently, we could only pay him for his endeavours : but the Directory could decide on the issue of our negociation. It had only to order, that no more american vessels should be seized, and to direct those now in custody to be restored, and there could be no opposition to the order. He said, that all the members of the Directory were not disposed to receive our money : that Merlin, for instance, was paid from another quarter, and would touch no part of the douceur which was to come from us. We replied, that we had understood, that Merlin was paid by the owners of the privateers ; and he nodded an assent to the fact. He proceeded to press this subject with vast perseverance. He told us that we paid money to obtain peace with the Algerines, and with the Indians ; and that it was doing no more to pay France for peace. To this it was answered, that when our government commenced a treaty with either Algiers or the Indian tribes, it was understood that money was to form the basis of the treaty, and was its essential article ; that the whole nation knew it, and was prepared to expect it as a thing of course ; but that in treating with France, our government had supposed, that a proposition, such as he spoke of, would, if made by us, give mortal offence. He asked if our government did not know, that nothing was to be obtained here without money ? We replied, that our government had not even suspected such a state of things. He appeared surprised at it, and said, there was not an American in Paris who could not have given that information. We told him, that the letters of our minister had indicated a very contrary temper in the government of France ; and had represented it as acting entirely upon principle, and as feeling a very pure and disinterested affection for America. He looked some-

what surprised ; and said briskly to general Pinckney : well, sir, you have been a long time in France and in Holland ; what do you think of it ? General Pinckney answered, that he considered Mr. X. and Mr. Y. as men of truth, and of consequence he could have but one opinion on the subject. He stated, that Hamburgh, and other states of Europe, were obliged to buy a peace ; and that it would be equally for our interest to do so. Once more he spoke of the danger of a breach with France, and of her power, which nothing could resist. We told him that it would be in vain for us to deny her power, or the solicitude we felt to avoid a contest with it ; that no nation estimated her power more highly than America, or wished more to be on amicable terms with her ; but that one object was still dearer to us than the friendship of France, which was our national independence ; that America had taken a neutral station : she had a right to take it : no nation had a right to force us out of it : that to lend a sum of money to a belligerent power, abounding in every thing requisite for war but money, was to relinquish our neutrality, and take part in the war : to lend this money, under the lash and coercion of France, was to relinquish the government of ourselves, and to submit to a foreign government imposed upon us by force : that we would make at least one manly struggle before we thus surrendered our national independence : that our case was different from that of one of the minor nations of Europe ; they were unable to maintain their independence, and did not expect to do so : America was a great, and so far as concerned her self-defence, a powerful nation : she was able to maintain her independence ; and must deserve to lose it, if she permitted it to be wrested from her : that France and Britain had been at war for near fifty years of the last hundred, and might probably be at war for fifty years of the century to come ; that America had no motives which could induce her to involve herself in those wars ; and that if she now preserved her neutrality and her indepen-

dence, it was most probable that she would not in future be afraid, as she had been for four years past : but if she now surrendered her rights of self-government to France, or permitted them to be torn from her, she could not expect to recover them, or to remain neutral in any future war. He said that France had lent us money during our revolution war, and only required that we should now exhibit the same friendship for her. We answered, that the cases were very different ; that America solicited a loan from France, and left her at liberty to grant or refuse it ; but that France demanded it from America, and left us no choice on the subject. We also told him there was another difference in the cases ; that the money was lent by France for great national and french objects ; it was lent to maintain a rival and an enemy whom she hated : that the money, if lent by America, would not be for any american objects, but to enable France to extend still further her conquests. The conversation continued for nearly two hours ; and the public and private advance of money was pressed and repressed in a variety of forms. At length Mr. X. said that he did not blame us ; that our determination was certainly proper, if we could keep it : but he showed decidedly his opinion to be that we could not keep it. He said that he would communicate, as nearly as he could, our conversation to the Minister, or to Mr. Y. to be given by him to the Minister ; we are not certain which. We then separated. On the 22d of October, Mr. Z., a french gentleman of respectable character, informed Mr. Gerry, that M. Talleyrand, minister of foreign relations, who professed to be well disposed towards the United States, had expected to have seen the american ministers frequently in their private capacities ; and to have conferred with them individually on the objects of their mission ; and had authorized Mr. Z. to make this communication to Mr. Gerry. The latter sent for his colleagues ; and a conference was held with Mr. Z. on the subject ; in which general Pinckney and general Mar-

shall expressed their opinions, that not being acquainted with M. Talleyrand, they could not, with propriety, call on him ; but, that according to the custom of France, he might expect this of Mr. Gerry from a previous acquaintance in America. This Mr. Gerry reluctantly complied with on the 23d and with Mr. Z. called on Mr. Talleyrand, who, not being then at his office, appointed the 28th for the interview. After the first introduction, M. Talleyrand began the conference. He said, that the Directory had passed an *arrêté*, which he offered for perusal, in which they had demanded of the envoys an explanation of some parts, and a reparation for others, of the President's speech to Congress, of the 16th of May last : he was sensible, he said, that difficulties would exist on the part of the envoys relative to this demand ; but that by their offering money, he thought he could prevent the effect of the *arrêté*. Mr. Z. at the request of Mr. Gerry, having stated that the envoys have no such powers ; Mr. Talleyrand replied, they can in such case take a power on themselves ; and proposed that they should make a loan. Mr. Gerry then addressed Mr. Talleyrand distinctly in English, which he said he understood, and stated, that the uneasiness of the Directory resulting from the President's speech, was a subject unconnected with the objects of the mission : that Mr. Barras, in his speech to Mr. Monroe, on his recall, had expressed himself in a manner displeasing to the government and citizens of the United States ; that the President, as the envoys conceived, had made such observations on Mr. Barras' speech as were necessary to vindicate the honor of the United States ; that this was not considered by our government as a subject of dispute between the two nations ; that having no instructions respecting it, we could not make any explanations or reparations relating to it ; and that Mr. Talleyrand himself was sufficiently acquainted with the constitution of the United States to be convinced of the truth of

these observations. Mr. Gerry further stated, that the powers of the envoys, as they conceived, were adequate to the discussion and adjustment of all points of real difference between the two nations; that they could alter and amend the treaty; or, if necessary, form a new one; that the United States were anxiously desirous of removing all causes of complaint between themselves and France, and of renewing their former friendship and intercourse, on terms which should be mutually honorable and beneficial to the two nations; but not on any other terms; that as to a loan, we had no powers whatever to make one; that if we were to attempt it, we should deceive himself and the Directory likewise, which, as men of honor, we could not do; but that we could send one of our number for instructions on this proposition, if deemed expedient, provided that the other objects of the negotiation could be discussed and adjusted; that as he had expressed a desire to confer with the envoys individually, it was the wish of Mr. Gerry that such a conference should take place, and their opinions thus be ascertained, which he conceived corresponded with his own in the particulars mentioned. Mr. Talleyrand, in answer, said, he should be glad to confer with the other envoys individually, but that this matter about the money must be settled directly, without sending to America; that he would not communicate the arrêt   for a week; and that if we could adjust the difficulty respecting the speech, an application would nevertheless go to the United States for a loan. A courier arriving at this moment from Italy, and Mr. Talleyrand appearing impatient to read the letters, Mr. Gerry took leave of him immediately. He followed to the door, and desired Mr. Z. to repeat to Mr. Gerry, what he, Mr. Talleyrand, had said to him. Mr. Gerry then returned to his quarters with Mr. Z. took down the particulars of this interview, as before stated, sent for generals Pinckney and Marshall, and read it to them in the presence of Mr. Z. who confirmed it. Generals

Pinckney and Marshall then desired Mr. Z. to inform Mr. Talleyrand that they had nothing to add to this conference, and did not wish that the arrêté might be delayed on their account.

October 29th.

Mr. X. again called on us. He said, Mr. Talleyrand was extremely anxious to be of service to us and had requested that one more effort should be made to induce us to enable him to be so. A great deal of the same conversation which had passed at our former interviews was repeated. The power and the haughtiness of France was again displayed to us. We were told that the destruction of England was inevitable; and that the wealth and arts of that nation would naturally pass over to America, if that event should find us in peace. To this observation we replied, that France would probably forbid America to receive them, in like manner as she had forbid Switzerland to permit the residence in its country of a british minister. We told him also, that we were sensible of the value of peace, and therefore sought it unremittingly, but that it was real peace we sought for, and real peace only which could be desirable.

The sum of his proposition was, that if we would pay, by way of fees, (that was his expression) the sum of money demanded for private use, the Directory would not receive us; but would permit us to remain in Paris as we now were; and we should be received by Mr. Talleyrand, until one of us could go to America and consult our government on the subject of the loan. These were the circumstances, he said, under which the Minister of Portugal had treated. We asked him if, in the mean time, the Directory would order the american property not yet passed into the hands of the privateersmen, to be restored? He said explicitly, that they would not. We asked him, whether they would suspend further depredations on our commerce? He said they would not: but Mr. Talleyrand observed, that on this subject we could not sustain much additional

injury, because the winter season was approaching, when few additional captures could be made. We told him that France had taken violently from America more than fifteen millions of dollars; and treated us in every respect as enemies, in return for the friendship we had manifested for her; that we had come to endeavour to restore harmony to the two nations, and to obtain compensation for the injuries our countrymen had sustained; and that in lieu of this compensation, we were told, that if we would pay twelve hundred thousand livres, we might be permitted to remain in Paris; which would only give us the benefit of seeing the plays and operas of Paris for the winter, that we might have time to ask from our country to exhaust her resources for France, whose depredations would be continued. He again stated, that by this procedure we should suspend a war; and that perhaps in five or six months power might change hands.

We told him that what we wished to see in France was a temper sincerely friendly to the United States, and really disposed to do us justice; that if we could perceive this, we might not so much regard a little money, such as he stated to be usual, although we should hazard ourselves by giving it; but that we saw only evidence of the most extreme hostility toward us: war was made upon us so far as France could make it in the present state of things; and it was not even proposed, that on receiving our money this war should cease; we had no reason to believe that a possible benefit could result from it; and we desired him to say that we would not give a shilling, unless american property unjustly captured was previously restored, and further hostilities suspended; and that unless this was done, we did not conceive that we could even consult our government concerning a loan; that if the Directory would receive us and commence negotiations, and any thing occurred which rendered a consultation of the government necessary, one of us would return to America for that purpose. He said that without this

money we should be obliged to quit Paris; and that we ought to consider the consequences: the property of the Americans would be confiscated, and their vessels in port embargoed. We told him that unless there was a hope of a real reconciliation, these evils could not be prevented by us; and the little delay we might obtain would only increase them; that our mission had induced many of our countrymen to trust their vessels into the ports of France, and that if we remained in Paris, that very circumstance would increase the number; and consequently the injury which our countrymen would sustain, if France could permit herself so to violate her own engagements and the laws of nations. He expressed a wish, that Mr. Y. should see us once more. We told him that a visit from Mr. Y. as a private gentleman, would always be agreeable to us; but if he came only with the expectation that we should stipulate advances of money, without previously establishing a solid and permanent reconciliation, he might save himself the trouble of the application, because it was a subject we had considered maturely, and on which we were immovable. He parted with us, saying, if that was the case, it would not be worth while for Mr. Y. to come. In the evening, while Gen. Pinckney and Gen. Marshall were absent, Mr. Y. and Mr. X. called and were invited by Mr. Gerry to breakfast with us the next morning.

October 30th.

Immediately after breakfast the subject was resumed. Mr. Y. spoke without interruption for near an hour. He said that he was desirous of making a last effort to serve us, by proposing something which might accommodate the differences between the two nations; that what he was now about to mention, had not by any means, the approbation of the Directory; nor could Mr. Talleyrand undertake, further than to make from us the proposition to the Directory, and use his influence for its success: that last week Mr. Talleyrand could not have ventured to have offered such propositions; but

that his situation had been very materially changed by the peace with the emperor : by that peace he had acquired in an high degree, the confidence of the Directory, and now possessed great influence with that body ; that he was also closely connected with Buonaparte and the generals of the army in Italy ; and was to be considered as firmly fixed in his post, at least for five or six months : that under these circumstances he could undertake to offer, in our behalf, propositions which before this increase of influence, he could not have hazarded. Mr. Y. then called our attention to our own situation, and to the force France was capable of bringing to bear upon us. He said that we were the best judges of our capacity to resist, so far as depended on our own resources, and ought not to deceive ourselves on so interesting a subject. The fate of Venice was one which might befall the United States. But he proceeded to observe, it was probable we might rely on forming a league with England. If we had such a reliance it would fail us. The situation of England was such, as to compel Pitt to make peace on the terms of France. A variety of causes were in operation which made such an effect absolutely certain. To say nothing of the opposition in England to the minister and to the war, an opposition which the fears of the nation would increase ; to say nothing of a war against England which was preparing in the north ; an army of one hundred and fifty thousand men, under the command of Buonaparte, spread upon the coast of France, and aided by all the vast resources of his genius, would most probably be enabled to invade England ; in which event their government would be overturned : but should this invasion not be absolutely effected, yet the alarm it would spread through the nation, the enormous expense it must produce, would infallibly ruin them, if it was to be continued ; and would drive them to save themselves by a peace : that independent of this, France possessed means which would infallibly destroy their bank and their whole paper system. He said he

knew very well it was generally conjectured that Buonaparte would not leave Italy, and the army which had conquered under him, and which adored him: he assured [us that] nothing could be more unfounded than the conjecture; that Buonaparte had for more than ten days left Italy for Rastadt, to preside over the congress which was formed for adjusting the affairs of the empire. He said that Pitt himself was so confident of the absolute necessity of peace, that after the naval victory over the Dutch, he had signified his readiness to treat on the same terms which he had offered before that action: we could not then rely on the assistance of England. What, he asked, would be our situation, if peace should be made with England before our differences with France would be accommodated? But, he continued, if even England should be able to continue the war, and America should unite with her, it would not be in our power to injure France. We might indeed wound her ally; but if we did, it would be so much the worse for us. After having stated the dangers attending us, if we should engage in the war, he proceeded to the advantages we might derive from a neutral situation: and insisted at large on the wealth which would naturally flow into our country, from the destruction of England. He next proceeded to detail the propositions which are in substance in the paper annexed, marked (A.) except that he insisted that we should engage to use our influence with our government for the loan. He stated expressly, that the propositions were to be considered as made by us; that Mr. Talleyrand would not be responsible for the success of any one of them, he would only undertake to use his influence with the Directory in support of them. The proposition, he said, concerning a suspension of hostilities on the part of France, was one which proceeded entirely from himself; Mr. Talleyrand had not been consulted upon it, and he could not undertake to say that that gentleman would consent even to lay it before the Directory. The proposition for an advance to the government of France of as much money

as was due from it to our citizens on contract, and as might be determined to be due for vessels improperly captured and condemned, was, he said, indispensable ; unless we made that it was unnecessary to make any other ; for the others would not be received. He expatiated on the vast advantages we should derive from delay ; it was, he said, absolutely to gain our cause. He returned to the danger of our situation and the policy of making with France any accommodation which France would assent to. Perhaps, said he, you believe that in returning and exposing to your countrymen the unreasonableness of the demands of this government, you will unite them in their resistance to those demands : you are mistaken : you ought to know that the diplomatic skill of France and the means she possesses in your country, are sufficient to enable her, with the french party in America, to throw the blame which will attend the rupture of the negotiations on the federalists, as you term yourselves, but on the british party, as France terms you ; and you may assure yourselves this will be done. He concluded with declarations of being perfectly disinterested, and declared that his only motives for speaking thus freely were his friendship for Mr. Talleyrand, and his wish to promote the interests and peace of the United States. We told him that the freedom with which he had spoken and which was agreeable to us, would induce us to speak freely also ; and for once to accompany our view of the present state of things with a retrospect of the past : that America was the only nation upon earth which felt and had exhibited a real friendship for the Republic of France : that among the empires round her, which were compelled to bend beneath her power and to obey her commands, there was not one which had voluntarily acknowledged her government, or manifested for it, spontaneously, any mark of regard : America alone had stepped forward and given the most unequivocal proofs of a pure and sincere friendship, at a time when almost the whole european world, when Austria, Germany, Prussia, Russia, Spain, Sardinia, Holland and Britain were leagued against France : when her situation was

in truth hazardous, and it was dangerous to hold even friendly intercourse with her, America alone stood forward, and openly and boldly avowed her enthusiasm in favour of the Republic, and her deep and sincere interest in its fate. From that time to the present, the government and people of the United States have uniformly manifested a sincere and ardent friendship for France, and have, as they conceive, in no single instance given to this Republic just cause of umbrage : if they have done so, they wish it to be pointed out to them. After the determination of France to break off all regular intercourse with them, they have sent three Envoys Extraordinary to endeavour to make such explanations as might produce reconciliation : these envoys are prepared to investigate, and wish to investigate any measures which may have given offence, and are persuaded that they can entirely justify the conduct of their government. To this distant, unoffending, friendly Republic, what is the conduct and the language of France ? Wherever our property can be found she seizes and takes it from us ; unprovoked, she determines to treat us as enemies, and our making no resistance produces no diminution of hostility against us ; she abuses and insults our government, endeavours to weaken it in the estimation of the people, recalls her own minister, refuses to receive ours, and when extraordinary means are taken to make such explanations as may do away misunderstandings, and such alterations in the existing relations of the two countries as may be mutually satisfactory and may tend to produce harmony, the Envoys who bear these powers are not received ; they are not permitted to utter the amicable wishes of their country ; but in the haughty style of a master, they are told that unless they will pay a sum to which their resources scarcely extent, that they may expect the vengeance of France, and like Venice be erased from the list of nations : that France will annihilate the only free republic upon earth, and the only nation in the universe which has voluntarily manifested for her a cordial and real friendship ! what impression must this make on the

mind of America, if without provocation France was determined to make war upon us, unless we purchased peace? We could not easily believe that even our money would save us: our independence would never cease to give offence, and would always furnish a pretext for fresh demands. On the advantages of neutrality it was unnecessary to say any thing: all the efforts of our government were exerted to maintain it; and we would never willingly part with it. With respect to a political connection with Britain, we told him that America had never contemplated it. Whether the danger he represented that government to be in was or was not real we should not undertake to decide: Britain we believed had much reason to wish for peace; and France had much reason to wish for peace also: if peace already existed it would not change the course America would pursue. Mr. Y. manifested the most excessive impatience: he interrupted us and said, this eloquent dissertation might be true: America might have manifested, and he believed had manifested great friendship for France, and had just complaints against her; but he did not come to listen to those complaints. The Minister would, on our request, make for us certain propositions to the Directory; he had stated them to us; and all the answer he wished was, yes or no; did we or did we not solicit the Minister to make the propositions for us? We told him that without going further into the discussion, we chose to remark one or two things: they were, that the existing treaty gave to France certain advantages which were very essential; that especially the american coast afforded a protection near two thousand miles in extent to the prizes made by France on her enemies, and refused that protection to the prizes taken from her; that she might be assured, that in case of war these advantages would be lost for ever. We also told him we were convinced that France miscalculated on the parties in America: that the extreme injustice offered to our country would unite every man against her. Mr. X. informed us that

Mr. Talleyrand would not consent even to lay this proposition before the Directory without previously receiving the fifty thousand pounds, or the greater part of it. Mr. Y. left in writing his propositions, and we returned the answer annexed and marked (B.)

November 1st.

It was at length agreed that we would hold no more indirect intercourse with the government.

November 3d.

Mr. X. called on us, and told General Pinckney and General Marshall (Mr. Gerry not being within) that Mr. Y. wished once more to see us. We answered, that we should at any time be glad to see Mr. Y. as a private gentleman: but that if his object was only to repeat his propositions for money, it was perfectly unnecessary to do so; because on that subject it was impossible for us to change the answer we had already given. We told him further, that we considered it as degrading our country to carry on further such an indirect intercourse as we had for some time submitted to, and had determined to receive no propositions, unless the persons who bore them had acknowledged authority to treat with us. He said that perhaps Mr. Y. might have written powers from the minister, and we replied, that if he had we should receive his communications with pleasure. He spoke of a probable peace with England, and having requested us to be at home in the afternoon, left us.

About three o'clock he came, and after some conversation, in which we repeated in substance what is stated above, he shewed us a paper, which he said was a copy of a letter prepared for us, by Mr. Talleyrand, requesting an explanation of the part of the President's speech, and which, he said, would be sent, unless we came into the propositions which had been made us. We wished to take a copy of it, which he declined permitting, saying, he was forbidden to allow it. We spoke of the letter coming to us as a measure we had no expectation of preventing; and he said he could not understand that we wished it delayed.

To which we answered, that the delay of a few days could not be desired, unless a hope existed that the Directory might become more friendly to our country. He said that intelligence had been received from the United States, that if Colonel Burr and Mr. Madison had constituted the mission, the differences between the two nations would have been accommodated before this time. He added as a fact he was not instructed to communicate, that Mr. Talleyrand was preparing a memorial to be sent out to the United States, complaining of us as being unfriendly to an accommodation with France. We replied to his intelligence from the United States, that the minister's correspondents in America took a good deal on themselves, when they undertook to say how the Directory would have received Colonel Burr and Mr. Madison, and that with respect to the memorial of Mr. Talleyrand, it would not be easy for him to convince our countrymen that the statements we should make were untrue. If, however, we were confident that our conduct would be condemned, Mr. Talleyrand might be assured that the fear of censure would not induce us to deserve it: but that we should act in a manner which our own judgments and consciences would approve of, and we trusted we should be supported by the great body of candid and honest men. In this conversation we again stated, that America had taken a neutral position, that she had faithfully sought to preserve it, that a loan of money to one of the belligerent powers was directly to take part in the war, and that to take part in the war against her own judgment and will, under the coercion of France, was to surrender our independence.

(*Incluses du N. 2.*)

*Propositions suggérées aux Ministres Américains par
les Agens Secrets de M. de Talleyrand.*

EXHIBIT (A.)

(*Inclosed in the Envoys' Letter No. 2. dated November 8th, 1797.*)

I. The American Envoys shall remain here for six months, in the same manner and upon the same footing, with regard to etiquette, as did M. D'Araujo, the Envoy of Portugal.

II. There shall be named a commission of five members, agreeably to a form to be established, for the purpose of deciding upon the reclamations of the Americans, relative to the prizes made on them by the french privateers.

III. The American Envoys will engage, that their government shall pay the indemnifications, or the amount of the sums already decreed to the American creditors of the French Republic, and those which shall be adjudged to the claimants by the commissioners. This payment shall be made under the name of an advance to the French Republic, who will repay it in a time and manner to be agreed upon.

IV. One of the American Envoys shall return to America, to demand of his government the necessary powers to purchase, for cash, the thirty-two millions of Dutch rescriptions, belonging to the French Republic, in case the Envoys should conclude a treaty, which shall be approved by the two nations.

V. In the interval, the definitive treaty shall proceed for the termination of all differences existing between the French Republic and the United States, so as that the treaty may be concluded immediately on the return of the deputy.

VI. The question of the rôle d'équipage shall remain suspended until the return of the deputy, and the com-

mission shall not pronounce upon any reclamation where this point shall be in question.

VII. During the six months granted for the going and returning of the deputy, hostilities against the Americans shall be suspended as well as the process for condemnation before the tribunals ; and the money of the prizes already condemned, in the hands of the civil officers of the nation, shall remain there, without being delivered to the privateers-men, until the return of the deputy.

*Réponse des Ministres Plénipotentiaires d'Amérique
à ces Propositions.*

EXHIBIT (B.)

*(Received with the Envoys' Letter No. 2. dated
8th November, 1797.)*

The Envoys Extraordinary and Ministers Plenipotentiary of the United States, cannot avoid observing the very unusual situation in which they are placed, by the manner in which they are alone permitted to make communications on the objects of their mission : they are called upon to pledge their country to a very great amount, to answer demands which appear to them as extraordinary as they were unexpected, without being permitted to discuss the reason, the justice, or the policy, on which those demands are founded, and not only without assurances that the rights of the United States will in future be respected ; but without a document to prove that those to whom they are required to open themselves without reserve, and at whose instance they are called on to sacrifice so much, are empowered, even by the minister, to hold any communication with them : yet such is the anxious and real solicitude of the Envoys to seize any occasion which may afford a hope, however distant, of coming to those explanations which they so much wish to make with this Republic, that they pass over the uncommon and

informal modes which have been adopted, and will only consider the propositions themselves.

I. The Ministers of the United States will permit no personal considerations to influence their negotiations with the French Republic. Although they expected that the extraordinary means adopted by their government to reconcile itself to that of France would have been received with some degree of attention, yet they are too solicitous to enter upon the important and interesting duty of their mission to permit themselves to be restrained by forms or etiquette.

II. On this article it is believed there can be no disagreement.

III. This article, as explained, would oblige the United States to advance, not to their own citizens, but to the Government of France, sums equivalent to the depredations made by the corsairs of the Republic on the american commerce, and to the contracts made with their citizens by France; and this advance, instead of benefitting the citizens of the United States, would leave them precisely what they now are, the creditors of the French Republic: the more extensive the depredations and the more considerable the contracts uncomplied with, the more would the government of France receive from the United States. Independent of these objections, the Ministers of the United States cannot engage to assume, in any form, the debts due from France to their fellow-citizens: they have no such power.

IV. If the negotiations be opened, and the propositions for a loan, or any other propositions, exceeding the powers of the Ministers, be made, the government of the United States will be consulted thereon with expedition.

V. This, or any proposition having for its object the claims of the two nations on each other, or an accommodation of differences, will be embraced with ardour by the Ministers of the United States.

VI. It cannot escape notice, that the question of the

rôle d'équipage may involve in it every vessel taken from the United States : the Ministers however consider it, and wish to take it up, as a subject of negotiation.

VII. On this article it is only to be observed, that the season of the year is such, as probably to render a return, within six months, of the Envoy, who might sail to the United States, impracticable : provision should be made for such an event.

If the difficulties attending the propositions for a loan and a compensation for past injuries be such as to require time for their removal, the Ministers of the United States propose that the discussions on the relative situation of the two countries, may commence in the usual forms ; that the relation to each other may be so regulated, as to obviate future misunderstandings ; and that the adjustment of the claims of the citizens of the United States, whose vessels have been captured, may be made after a decision on the point first mentioned.

No diplomatic gratification can precede the ratification of the treaty.

No. 3.

Dépêche du 27 Novembre 1797, par laquelle les Ministres Américains informent M. Pickering, Secrétaire d'Etat des Etats-Unis, que le 11 de Novembre ils ont adressé une Note Officielle au Ministre des Relations Extérieures de la République Française pour le prier d'assurer le Directoire Exécutif des Dispositions amicales des Etats-Unis à l'égard de la France, et de leur Empressement de rétablir la bonne Harmonie entre les deux Nations; que cette Note est restée sans Réponse; que les Tentatives, d'entraîner les Ministres Américains, dans des Négociations avec des Personnes non dûment autorisées, ont été renouvelées, et qu'en général les Dispositions du Gouvernement Français paraissent telles, qu'ils ne sauraient se flatter de réussir dans leur Mission.

Paris, November 27th, 1797.

Dear Sir,

On the 11th instant we transmitted the following official letter to the Minister of Foreign Affairs.

" Citizen Minister,

" The undersigned Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the French Republic, had the honor of announcing to you officially on the sixth of October, their arrival at Paris, and of presenting to you on the eighth, a copy of their letters of credence. Your declaration at that time, that a report on american affairs was then preparing, and would in a few days be laid before the Directory, whose decision thereon should, without delay, be made known, has hitherto imposed silence on them. For this communication they have waited with that anxious solicitude which so interesting an event could not fail to excite, and with that respect which is due to the Government of France. They have not yet received it: and so much time has been permitted to elapse, so critical is the situation of many of their countrymen, and so embarrassing is that of the

undersigned, both as it respects themselves and the government they represent, that they can no longer dispense with the duty of soliciting your attention to their mission.

“ The United States, Citizen Minister, at an epoch which evinced their sincerity, have given incontestible proofs of their ardent friendship, of their affection for the French Republic : these were the result, not of her unparalleled prowess and power, but of their confidence in her justice and magnanimity ; and in such high estimation was the *reciprocity* of her friendship held by them, as to have been a primary object of national concern. The preservation of it was dear to them, the loss of it a subject of unfeigned regret, and the recovery of it, by every measure which shall consist with the rights of an independent nation, engages their constant attention. The government of the United States, we are authorized to declare, has examined, with the most scrupulous justice, its conduct towards its former friend. It has been led to this by a sincere desire to remove, of itself, every just cause of complaint ; conceiving that, with the most upright intentions, such cause may possibly exist ; and although the strictest search has produced no self-reproach, although the government is conscious that it has uniformly sought to preserve, with fidelity, its engagements to France, yet far from wishing to exercise the privilege of judging for itself, on its own course of reasoning and the lights in its own possession, it invites fair and candid discussion ; it solicits a reconsideration of the past ; it is persuaded its intentions, its views, and its actions must have been misrepresented and misunderstood ; it is convinced that the essential interest of both nations will be promoted by reconciliation and peace ; and it cherishes the hope of meeting with similar dispositions on the part of the Directory.

“ Guided by these sentiments, the President of the United States has given it in charge to the undersigned to state to the Executive Directory the deep regret which

he feels at the loss or suspension of the harmony and friendly intercourse which subsisted between the two Republics, and his sincere wish to restore them; to discuss candidly the complaints of France, and to offer frankly those of the United States: and he has authorized a review of existing treaties, and such alterations thereof as shall consist with the mutual interest and satisfaction of the contracting parties.

“ This task the undersigned are anxious to commence; and truly happy will they be, if their exertions can in any degree contribute to restore that friendship, that mutual interchange of good offices which it is alike their wish and their duty to effect between the citizens of the two republics.

“ The undersigned pray you, Citizen Minister, to present this communication to the Executive Directory, and to receive the assurances of their most perfect consideration.

(Signed) CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
ELBRIDGE GERRY.

Paris, November 11th, in the 22d year of American Independence.

To the Minister of Foreign affairs
of the French Republic.”

No answer having been given to it on the 21st instant, we requested major Rutledge to wait on the minister, and enquire of him whether he had communicated the letter to the Directory, and whether we might expect an answer: He replied that he had submitted our letter to them, and that they would direct him what steps to pursue, of which we should be informed. We have not, however, hitherto received any official intimation relative to this business: we are not yet received; and the condemnation of our vessels for want of a rôle d'équipage is unremittingly continued. Frequent and urgent attempts have been made to inveigle us again

into negotiation with persons not officially authorized, of which the obtaining of money is the basis: but we have persisted in declining to have any further communication relative to diplomatic business with persons of that description; and we mean to adhere to this determination. We are sorry to inform you, that the present disposition of the government of this country appears to be as unfriendly towards us as ever, and that we have very little prospect of succeeding in our mission.

We have the honor to be, your most obedient humble servants,

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Col. PICKERING.

No. 4.

Dépêche adressée à M. Pickering en Date du 24 Décembre, 1797; les Ministres Plénipotentiaires adressent au Secrétaire d'Etat des Etats-Unis le Précis de trois Entretiens qu'ils ont eus avec les Agens Secrets du Gouvernement Français, et sont d'Opinion que, s'ils restaient encore six Mois à Paris et qu'ils fussent même reconnus diplomatiquement, ils ne parviendraient jamais à obtenir les Objets de leur Mission, à moins de consentir aux Sacrifices pécuniaires, très-considérables, sur lesquels insistait le Gouvernement Français; avec trois Pièces (A. B. C.) contenant la Substance des Conversations que les Ministres avaient eues, dans le Courant de Décembre, avec Messrs X. et Y.

Paris, December 24th, 1797.

Dear Sir,

We have not yet received any answer to our official letter to the minister of foreign affairs, dated the eleventh of last month, and mentioned in number three: but reiterated attempts have been made to engage us

in negociation with persons not officially authorized ; and you will find by the exhibits marked A, B, and C, herewith sent, some important information relative to the views and intentions of the French Government with respect to ours. We are all of opinion, that if we were to remain here for six months longer, without we were to stipulate the payment of money, and a great deal of it, in some shape or other, we should not be able to effectuate the objects of our mission, should we be even officially received : unless the projected attempt on England was to fail, or a total change take place in the persons who at present direct the affairs of this government. In this situation of matters, we are determined, by the tenth of next month, should they remain as they are, to transmit another letter to the minister, representing, as far as may be expedient, the views of our government.

We have the honor to be, with great respect and regard, your most obedient humble servants,

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Col. PICKERING,
Secretary of State.

(Includes du No. 4.)

PIECE A.

Relation du Général Pinckney, au Sujet d'une Visite qu'il avait reçue de M. X. et d'une Conversation avec une Dame.

EXHIBIT (A.)

(Inclosed in the Envoys' Letter, No. 4.)

On the 14th of December, Mr. X. called on me, in order, as he said, to gain some information relative to some lands in purchased by for whom Soon afterwards general Marshall came in, and then Mr. Gerry's carriage drove into the yard. Here is Mr. Gerry, said general Marshall. I am glad of it, said Mr. X. for I wished to meet all of you gentlemen,

to inform you that Mr. Y. had another message to you from Mr. Talleyrand. I immediately expressed my surprise at it, as Mr. Talleyrand, Mr. Y. and he, all knew our determination to have no further communication on the subject of our mission, with persons not officially authorized. He replied, that determination was made six weeks ago; and it was presumed that we had changed our opinion. I said that I had not; and I did not believe my colleagues had. At that moment Mr. Gerry entered the room, and I privately acquainted him with the object of Mr. X.'s visit. General Marshall, Mr. Gerry, and myself then withdrew into another room; and immediately agreed to adhere to our former resolution. Mr. X. was then called in; when I acquainted him, in a few words with our determination: and Mr. Gerry expatiated more at large on the propriety of our acting in this manner, and on the very unprecedented way in which we had been treated, since our arrival.

On the twentieth of December, a lady, who is well acquainted with Mr. Talleyrand, expressed to me her concern, that we were still in so unsettled a situation: but, adds she, why will not you lend us money? If you would but make us a loan, all matters would be adjusted: and she added, when you were contending for your revolution, we lent you money. I mentioned the very great difference there was between the situation of the two countries at that period and the present; and the very different circumstances under which the loan was made us, and the loan was now demanded from us. She replied, we do not make a demand; we think it more delicate that the offer should come from you: but Mr. Talleyrand has mentioned to me (who am surely not in his confidence) the necessity of your making us a loan: and I know that he has mentioned it to two or three others; and that you have been informed of it: and I will assure you, that if you remain here six months longer, you would not advance a single step further in your negotiations, without a

loan. If that is the case, I replied, we may as well go away now. Why that possibly, said she, might lead to a rupture; which you had better avoid: for we know we have a very considerable party in America, who are strongly in our interest.—There is no occasion to enter into a further detail of the conversation. I have only noted this part of it as expressive of what I believe (as far as relates to the loan and a party in America in their favour) to be the sentiments of the French Government with regard to us.

CHARLES COTESWORTH PINCKNEY.

December, 21st, 1797.

PIECE B.

Extrait du Journal du Général Marshall, concernant la Proposition faite le 17 Décembre par M. Y., de procurer au Gouvernement Français la Gratification de 50,000 l. st. qu'il demande, au moyen d'une Cession à faire par M. de Beaumarchais contre l'Avantage qu'on lui accorderait par le Gain du Procès qu'il poursuit à la Charge de l'Etat de Virginie. M. Pinckney réproouve ce Mode, et les trois Ministres sont d'accord à persister dans la Résolution, qu'ils avaient déjà prise de ne plus écouter de Pareilles Propositions de la Part des Agens Secrets du Gouvernement Français, mais de demander à traiter directement avec le Ministre des Relations Extérieures.

EXHIBIT (B.)

(Inclosed in the Envoys' Letter, No. 4.)

Extract from General Marshall's Journal.

December, 17th, 1797. I stepped into Mr. Gerry's apartment, where I saw Mr. Y. He expressed his regret at having been disabled to dine with us at Mr. de Beaumarchais, by an inveterate tooth-ache. He then asked me whether I had seen Mr. de Beaumarchais lately? I told him, not since he dined with us; and that he had left us much indisposed. He then observed, that he had not known until lately, that I was the

advocate for that gentleman in his cause against the state of Virginia; and that Mr. de Beaumarchais, in consequence of that circumstance, had expressed sentiments of high regard for me. I replied, that Mr. de Beaumarchais' cause was of great magnitude, very uncertain issue,—and consequently, that a portion of the interest he felt in it, would very naturally be transferred to his advocate. He immediately said, (low and apart) that Mr. de Beaumarchais had consented, provided his claim could be established, to sacrifice fifty thousand pounds sterling of it, as the private gratification which had been required of us; so that the gratification might be made without any actual loss to the American Government. I answered, that a gratification on any terms, or in any form, was a subject which we approached with much fear and difficulty, as we were not authorized by our government to make one; nor had it been expected that one would be necessary: that I could not undertake to say whether my colleagues would consent to it, in any state of things; but I could undertake to say, no one of us would consent to it, unless it was preceded or accompanied by a full and entire recognition of the claims of our citizens, and a satisfactory arrangement on the objects of our mission. He said, it was in the expectation of that event only that he mentioned it. We parted: and I stated the conversation to general Pinckney, who was disinclined to any stipulation of the sort, and considered it as a renewal of the old reprobated system of indirect, unauthorized negotiation.

Having been originally the counsel of Mr. de Beaumarchais, I had determined, and so I had informed general Pinckney, that I would not, by my voice, establish any agreement in his favour; but that I would positively oppose any admission of the claim of any french citizen, if not accompanied with the admission of the claims of the american citizens for property captured and condemned for want of a rôle d'équipage. My reason for conceiving that this ought to be stipulated

expressly, was a conviction, that if it was referred to commissioners, it would be committing absolutely to chance, as complete a right as any individuals ever possessed. General Pinckney was against admitting the claim at any rate.

After my return, Mr. Gerry came into my room, and told me that Mr. Y. had called on him, to accompany him on a visit to Mr. Talleyrand ; that he proposed seeing Mr. Talleyrand, and returning the civility of the dinner ; and endeavouring to bring about some intercourse between him and us.

December 18. General Pinckney and Mr. Gerry met in my room ; and Mr. Gerry detailed to us the conversations mentioned in our public letter. The proposition relative to the claim of Mr. de Beaumarchais is entirely different from my understanding of it, in the very brief statement made to me by Mr. Y. We resolved that we would rigidly adhere to the rule we had adopted, to enter into no negotiation with persons not formally authorized to treat with us. We came also to the determination to prepare a letter to the minister of foreign relations, stating the object of our mission, and discussing the subjects of difference between the two nations, in like manner as if we had been actually received ; and to close the letter with requesting the government to open the negotiation with us, or to grant us our passports.

PIECE C.

Rapport fait par M. Gerry touchant deux Conversations qu'il avait eues avec M. Y., et dans lesquelles il était Question du Mode d'effectuer le Payement de la Gratification de 50,000 l. st. par l'Entremise de M. de Beaumarchais, et de celui d'acheter les 32 Millions de Rescriptions Bataves.—Entrevue avec M. de Talleyrand, qui accepte l'Invitation à dîner chez M. Gerry, et fait la Proposition distincte, que la France est disposée à prendre des Mesures pour satisfaire aux Réclamations équitables de l'Amérique, provenant des Captures faites sur son Commerce, et à lui garantir à l'Avenir la Navigation libre, si les Etats-Unis veulent acheter 32 Millions de Rescriptions Bataves, pour les avancer à la France.—Mais le Ministre d'Etat Français ne s'explique point sur la Demande de M. Gerry, que le Gouvernement de France reconnaisse enfin publiquement les Envoyés des Etats-Unis, pour entrer avec eux en Négociation sur les Objets de leur Mission.

EXHIBIT (C.)

(Inclosed in the Envoys' Letter, No. 4.)

December 13. Mr. Gerry accidentally calling on General Pinckney, found Mr. X. and was soon informed, that his object was to obtain another interview between the ministers and M. Y. on the affairs of their mission. General Marshall happening also to be there, we retired into another room, and immediately agreed to adhere to our former determination, not to have any more informal communications. Mr. X. having been called in, General Pinckney briefly communicated our determination: and Mr. Gerry observed, that he was much hurt by this proposition; that the ministers had already proceeded farther in this mode of communication than perhaps they could justify; that they had refused, six weeks ago, to renew it; and that some regard ought to be paid to their feelings, which had been sufficiently mortified; that the proposition was disrespectful to the

Envoys, as it betrayed a belief, that they had lost the sense of their dignity, and were indeed incompetent to their office; that had there been but one envoy extraordinary, he ought to have had an audience in a few days; and that for three to remain between two and three months in this situation, was too humiliating, too debasing, for any nation to submit to it; that for his own part, had he been sent to any other nation in Europe, with two other envoys, he would not have consented to have remained in such a state ten days; that knowing the great desire of the government and nation of the United States to be at peace with France, he had, with his colleagues, submitted to this indignity, at the risque of the severe censure of the former.— Having also enquired of Mr. X. at what time Mr. Talleyrand could be seen, the former said he would enquire of Mr. Y. who on the 16th, in the evening, sent, in Mr. Gerry's absence from his lodgings, a billet as follows: "Mr. Y. has the honor to present his respects to Mr. Gerry, and to inform him, that he will have the honor to wait on him to-morrow morning, at ten o'clock, to go together to the minister of foreign relations. He is with respect," &c. On the morning of the 17th, Mr. Y. came in while Mr. Gerry was at breakfast, not having received an answer to his note: and Mr. Marshall coming in, Mr. Y. took him aside, and conferred with him a considerable time; after which, the former, and the rest of the family, left the room: and Mr. Y. and Mr. Gerry being together, Mr. Gerry told him, that his object in seeing M. Talleyrand was to return a civility, by requesting him to fix a day for dining with Mr. G. who intended to invite his colleagues; by this interview to promote, if possible, a better understanding between the Minister and the american Envoys; and Mr. G. also proposed to confer with the Minister on the disagreeable situation the Envoys were in, and to state to him some reports which appeared to be founded, respecting a proposition before the Directory for sending off all Americans in a short

period ; but Mr. Gerry added, that he could not hear a word on the subject of the mission, or the preliminaries to a negotiation, as the Envoys had determined unanimously against any informal communications on the subject. Mr. Y. in answer said, that Mr. Marshall had just heard him on a subject of this kind ; and that we might consider it, as he did, merely as a conversation between ourselves. He then stated that two measures, which Mr. Talleyrand proposed, being adopted, a restoration of friendship between the republics would follow immediately ; the one was a gratuity of fifty thousand pounds sterling ; the other a purchase of thirty-two millions of the Dutch rescriptions : that as to the first, Mr. de Beaumarchais had recovered, in a cause depending in Virginia, between that state and himself, one hundred and forty-five thousand pounds sterling ; that there was an appeal from the judgment ; that he would sign an act to relinquish forty-five thousand pounds, if the whole should be finally recovered, leaving only one hundred thousand pounds for himself ; that the forty-five thousand pounds might accrue to the United States, who would, in that case, lose but a small part of the fifty thousand pounds ; that the purchase of sixteen millions of rescriptions would amount to but one million three hundred and thirty three thousand [pounds,] six shillings, and eight pence sterling, which, with an interest of five per cent. would be certainly paid by the Government of Holland to the United States, and leave them without any loss, that more than half the sum may now be hired in Holland, on the credit of the rescriptions, and an easy arrangement be made for payment, by short instalments, which might be obtained also by a loan ; that it was worthy the attention of the Envoys to consider, whether by so small a sacrifice they would establish a peace with France, or whether they would risk the consequences ; that if nothing could be done by the Envoys, arrangement would be made forthwith to ravage the coasts of the United States by frigates from St. Domingo ; that

small states which had offended France were suffering by it ; that Hamburgh, and other cities in that quarter, would, within a month or two, have their government changed ; that Switzerland would undergo the same operation ; and that Portugal would probably be in a worse predicament ; that the expedition against England would be certainly pursued ; and that the present period was the most favourable, if we wished to adopt any measure for a pacification.—Mr. Gerry, in answer, said, that if the French were disposed to pursue with vengeance the United States, they might perhaps ravage their coasts, and injure them in this way, but they never could subdue them : the measure he thought utterly impracticable, even if attempted by France and her allies. To which Mr. Y. assented. Mr. Gerry observed further, that the ravages alluded to would undoubtedly closely connect the United States and Great Britain, and prevent the former from returning to the friendship which they have ever had for France : that as to the propositions, he should express no opinion on them ; that his situation, and that of his colleagues, was extremely difficult ; that the Directory were exclusively prejudiced against the government of the United States, and considered them as the friends of Great Britain ; that if the Envoys could have an opportunity of being heard, they could remove such impressions, and show that the government were the friends of France as much as of Great Britain ; but that the Envoys were now in the most painful situation ; that they were treated, in the eyes of all Europe, and of the American Government and nation, with the utmost contempt ; and were submitting to indignities which they could not reconcile to their feelings, or justify to their constituents. Mr. Y. said that the observations were just : but that the American Envoys had not experienced worse treatment than other ministers, nor indeed as bad ; that the Envoy of Portugal was again ordered to depart ; and that but little ceremony was observed to the Envoys in general. Mr. Y. and Mr. Gerry then took a ride to

Mr. Talleyrand's bureau, who received them politely : and after being seated, Mr. Gerry observed to Mr. Talleyrand, in English, slowly, that Mr. Y. had stated to him, that morning, some propositions as coming from Mr. Talleyrand, respecting which Mr. Gerry could give no opinion : that his object at this interview was, to request of him information whether he would fix a time for taking a dinner with Mr. Gerry, at which he proposed to invite his colleagues ; that he wished for more frequent interviews of some kind or other between himself and the Envoys ; conceiving that many imaginary difficulties which obstructed the negotiation, would vanish by this means ; and that those which were real, would be surmounted : that conceiving the delicate part which the Minister of France had to act at this time, he did not wish Mr. Talleyrand to accept the invitation, if it would subject him to inconveniences : that he wished to speak on another subject ; and it was painful to him to acknowledge, that the precarious situation of the Envoys was such, as to render it impossible for them to take measures for decent arrangements ; that a short time since, he had supposed measures were taking a favourable turn ; but that lately he had received, from various quarters, information of a report made by the minister of the interior, and under the consideration of the Directory, for sending all Americans from Paris in twenty-four hours ; that he could not be responsible for the truth of the information, but it appeared to him, as well from the various quarters from which it came, as from the intelligence of the person who gave it, to be highly probable ; that if this was the case, it was unnecessary for the Directory, as he conceived, to pass any arrêté, as it respected the Envoys, for that they would depart from Paris whenever it was hinted as the wish of the Directory ; that for his own part, he should feel more at ease, until we were received, to reside in a city of some other nation than that of France ; and to return to Paris on notice that the Directory were disposed to open the negotiation. Mr. Talleyrand appear-

ed to be very uneasy at this declaration ; but avoided saying a word on it. He said that the information Mr. Y. had given me was just, and might always be relied on ; but that he would reduce to writing his propositions : which he accordingly did ; and after he had shown them to Mr. Gerry, he burnt the paper. The substance was as follows. [See No. 1. below.]

He then said, that he accepted of the invitation ; that he would dine with him the decade after the present, in which he was engaged.

Mr. Gerry did not repeat all that he had said to Mr. Y. having no doubt he would communicate the whole to Mr. Talleyrand. And, after expressing a friendship for the French Republic, and a warm desire to renew the former attachments of the two republics, which Mr. Talleyrand warmly reciprocated, Mr. Gerry bid Mr. Talleyrand adieu ; leaving with him Mr. Y.

(No. 1.)

That the Envoys should come forward generally, and say :

“ France has been serviceable to the United States, and now they wish to be serviceable to France ; understanding that the French Republic has* sixteen millions of dutch rescriptions to sell, the United States will purchase them at par, and will give her further assistance when in their power.

“ The first arrangement being made, the French Government will take measures for re-imbursing the equitable demands of America arising from prizes, and to give free navigation to their ships in future.”

* 16 millions de florins d'Hollande, ou 32 millions de France.

No. 5.

Dépêche du 8 Janvier, 1798, par laquelle les Ministres Américains adressent à M. Pickering, Secrétaire d'Etat des Etats-Unis, Copie du Message du Directoire Exécutif de France au Conseil des Cinq-Cents, pour presser cette assemblée de rendre un Décret, déclarant de bonne Prise tout Bâtiment neutre, qui aurait à Bord des marchandises Anglaises, et fermant les Ports de France à tout Navire neutre qui, dans sa traversée, serait entré dans un Port Britannique.—Les Ministres déclarent en même-temps de nouveau, qu'ils n'ont pas la moindre Espérance d'être admis officiellement auprès du Gouvernement Français, ou de pouvoir atteindre le But de leur Mission.—

Paris, January 8th, 1798.

Dear Sir,

We embrace an unexpected opportunity to send you the 'Redacteur' of the fifth instant, containing the message of the Directory to the Council of Five Hundred, urging the necessity of a law to declare as good prize, all neutral ships having on board merchandizes and commodities, the production of England, or of the english possessions, that the flag, as they term it, may no longer cover the property:—And declaring further, that the ports of France, except in case of distress, shall be shut against all neutral ships, which, in the course of their voyage shall have touched at an english port. A commission has been appointed to report on the message, and it is expected that a decree will be passed in conformity to it.

Nothing new has occurred since our last, in date of the twenty-fourth ultimo. We can only repeat that there exists no hope of our being officially received by this government, or that the objects of our mission will be in any way accomplished.

We have the honor to be, with great respect, your most obedient servants,

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Timothy Pickering, Esquire.

*Postscript to a Triplicate of the Envoys' Letter, No. 5,
received 30th March, 1798.*

The law abovementioned has been passed unanimously by the Council of Five Hundred, and we inclose a journal containing the account. There is no doubt, but that it will be adopted, without opposition, by the Council of Ancients.

(Incluse du No. 5.)

Message adressé au Conseil des Cinq-Cents par le Directoire Exécutif, le 15 Nivôse, An 6, (4 Janvier, 1798.)

Citoyens Représentans,

Aujourd'hui, 15 Nivôse, et à l'heure même à laquelle le Directoire Exécutif vous adresse ce message, les administrateurs-municipaux, les juges de paix, les commissaires du Directoire, et les préposés des douanes procèdent dans tous les chefs-lieux de départemens, dans tous les ports et dans toutes les principales communes de la République, à la saisie des marchandises anglaises existantes en France, ou introduites sur son territoire en contravention de la loi du 10 Brumaire, an 5, (31 Octobre, 1796.) Tel est le premier acte, par lequel, lorsque la paix est donnée au Continent, la guerre, déclarée depuis long-temps à l'Angleterre, va prendre enfin le véritable caractère, qui lui convient. Les Français ne souffriront pas, qu'une puissance, qui cherche à fonder sa prospérité sur le malheur des autres nations, à élever son commerce sur la ruine de celui des autres peuples, et qui, aspirant à la domination des mers, veut introduire par-tout les objets manufacturés dans ses fabriques, et ne rien recevoir de l'industrie étrangère, jouisse plus long-temps du fruit de ses coupables spéculations. Le Gouvernement Anglais a soudoyé pendant la guerre, avec le produit de ses fabriques, les forces coalisées : il a violé tous les principes du droit des gens, afin d'en-

traver les relations des puissances neutres : il a fait saisir les vivres, les grains, les denrées, qu'il croyait destinés pour la France ; il a déclaré contrebande tout ce qu'il pensait pouvoir être utile à la République, il a voulu l'affamer. Tous les citoyens demandent à en tirer vengeance. Lorsqu'il a eu à craindre la prise des bâtimens, naviguant sous son pavillon, il a corrompu les capitaines étrangers, pour les engager à prendre sur leurs bords les marchandises anglaises, et les introduire ainsi par ruse, par fraude ou autrement, dans les autres états, et notamment dans la République Française. Les puissances neutres auraient dû s'appercevoir, que par cette conduite leurs commerçans prenaient part à la guerre, et qu'ils pretaient secours à l'une des puissances belligérantes. On sert un parti, autant lorsqu'on lui procure le moyen d'augmenter ses forces, que lorsqu'on se réunit à celles qu'il a. Les puissances neutres auraient dû s'appercevoir, que l'Angleterre, en arrêtant les navires des autres puissances, chargés dans leurs ports respectifs, et destinés pour la France, en ne laissant circuler que les objets provenans de ses fabriques, visait à un commerce exclusif, et qu'il fallait poursuivre la réparation d'un pareil attentat.

L'ordonnance de la marine et le règlement de 1704, ont déclaré de bonne prise les navires et les chargemens, sur lesquels il se trouve des marchandises anglaises, appartenant aux ennemis. Ces dispositions doivent être étendues ; l'intérêt de l'Europe le sollicite. Le Directoire pense, qu'il est urgent et nécessaire de rendre une loi, qui déclare, que l'état des navires, en ce qui concerne leur qualité de neutres ou d'ennemis, sera déterminé par leur cargaison, et que la cargaison ne sera plus couverte par le pavillon ; en conséquence, que tout bâtiment, trouvé en mer, ayant à son bord des denrées et marchandises anglaises pour sa cargaison, en tout ou en partie, sera déclaré de bonne prise, quel que soit le propriétaire de ces denrées ou marchandises, qui seront réputées contrebande par ce seul fait, qu'elles proviennent de l'Angleterre ou de ses possessions. Il serait

utile de déclarer en même-temps, qu'excepté le cas de relâche forcée, les ports de la République seront fermés à tous les navires étrangers, qui, dans le cours de leur traversée, seraient entrés dans ceux de l'Angleterre.

Le Directoire Exécutif vous demande, citoyens représentans, d'adopter ces mesures : aucune puissance neutre ou alliée ne pourra se méprendre sur leur objet, ni s'en plaindre, à moins qu'elle ne fût déjà livrée à l'Angleterre. L'effet infaillible de la mesure est de faire valoir le produit de leur sol et de leur industrie, d'accroître la prospérité de leur commerce, de faire repousser tout ce qui vient de l'Angleterre, et d'influer essentiellement sur la fin de la guerre. Tels sont les motifs, qui engagent le Directoire Exécutif à vous inviter, citoyens représentans, à prendre l'objet de ce message dans la plus prompte considération.

(Signé) P. BARRAS, Président.

LAGARDE, Secrétaire-Général.

Le rapport de Villers a été conforme au message, en se terminant par le projet de résolution suivant.

10. L'état des navires, en ce qui concerne leur qualité de neutres ou d'ennemis, sera désormais déterminé par leur cargaison. En conséquence, tout bâtiment trouvé en mer, chargé, en tout ou en partie, de marchandises provenant d'Angleterre ou de ses possessions, sera déclaré de bonne prise, quels que soient les propriétaires de ces denrées ou marchandises.

20. Tout navire étranger, qui, dans le cours de sa traversée, serait entré dans un port d'Angleterre, ne sera admis dans les ports de la République, que dans la nécessité de relâche, auquel cas il sera tenu d'en sortir, aussitôt que les causes de relâche auront cessé.

Message du Président des Etats-Unis, adressé au Sénat et à la Chambre des Représentans, le 4 Mai, 1798, pour leur transmettre la Suite de la Correspondance des Ministres Plénipotentiaires d'Amérique à Paris.

Message of the President of the United States, to both Houses of Congress.

Gentlemen of the Senate, and

Gentlemen of the House of Representatives,

I now transmit to Congress copies of all the communications, from our Envoys Extraordinary, received since their arrival in Paris, excepting those before presented by me to both Houses.

JOHN ADAMS.

United States,
May 4th, 1798.

No. 6.

Dépêche des Ministres Plénipotentiaires d'Amérique, adressée à M. Pickering, Secrétaire d'Etat des Etats-Unis, en Date du 7 Février, 1798, pour lui transmettre Copie d'un Mémoire qu'ils avaient remis le 31 Janvier au Ministre des Relations Extérieures de la République Française.

Paris, February 7th, 1798.

Dear Sir,

We transmit to you, in this inclosure, our last letter to the Minister of Foreign Relations. Though dated the 17th ult. it was not, on account of the time taken to translate so long a letter, delivered till the 31st. In our communications here, although we have, agreeably to your instructions, written in our own language, we have at the same time taken the precaution, lest our meaning should be misrepresented or misunderstood, to accompany them with an accurate translation. We have not yet received any answer to this communication, and should no notice be taken of it in a few days,

we shall apply in a more explicit manner for our passports.

The Councils have passed the decree mentioned in No. 5, as having been recommended by the Directory, to capture and condemn all neutral vessels laden in part or in whole with the manufactures or productions of England or its possessions. We inclose you the official copy of the report on that subject, and shall represent to this government the injustice and injury which it must inevitably occasion us.

We have the honor to be, with great respect, your most obedient humble servants,

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Colonel Pickering, Secretary
of the United States.

a.

(Incluse du No. 6.)

Mémoire des Ministres d'Amérique, en Date du 17 Janvier, 1798, remis à M. de Talleyrand, le 31 du même Mois.—Le Caractère diplomatique des Ministres Américains n'ayant pas été reconnu encore officiellement du Gouvernement Français, ils cherchent à lui présenter dans ce Mémoire quelques Considérations, relatives aux Objets de leur Mission. Pour cet effet ils tâchent de prouver, que le Gouvernement Fédéral ne mérite pas les Reproches que lui fait celui de France, et dont le principal porte l'Accusation d'être prévenu en Faveur de l'Angleterre. En Preuve du contraire, les Ministres Américains rappellent à la France le Fait que, de toutes les Puissances les Etats-Unis ont été les premiers à reconnaître la République Française, et à en recevoir un Ministre sans aucune Difficulté. A l'Effet de justifier davantage leur Gouvernement de ces Reproches, les Ministres Plénipotentiaires présentent un Apperçu de la Conduite

que les Etats-Unis ont tenue en général vis-à-vis de la France depuis le Commencement de la Guerre en 1793.— L'Amérique ne se trouvant pas dans l'Obligation d'y prendre Part, ni en suite de ses Traités, ni par sa Situation politique, se déclare pour la Neutralité. De là une Discussion approfondie des Principes que les Etats-Unis ont suivis à cet Egard. La Maxime, que le Navire couvre la Marchandise étant, suivant ces Principes, une Exception du Droit général des Nations, le Gouvernement Fédéral, qui à cet Egard n'avait fait aucune Stipulation avec l'Angleterre, devait souffrir que cette Puissance saisis les Propriétés de ses Ennemis à Bord des Bâtimens Américains, le Gouvernement Fédéral étant d'ailleurs destitué des Moyens nécessaires pour s'opposer à l'Exercice d'un pareil Droit.—Les Débats entre la France et les Etats-Unis sur les Principes de la Neutralité étant terminés, la première commençait à se plaindre de l'Application de ces Principes à des Cas particuliers, tandis que l'Amérique avait contre la France des Grieffs graves, provenant des Déprédations exercées sur son Commerce par les Armateurs Français.—Le Traité, conclu en 1794 entre la Grande-Bretagne et les Etats-Unis, ayant donné lieu à la France d'accuser le Gouvernement Fédéral d'avoir, par ce Traité, sacrifié ses Liaisons avec la France, et les Droits de Neutralité les plus essentiels et les plus évidens, parceque, 1o. les Etats-Unis avaient renoncé au Principe, que le Bâtiment couvre la Marchandise; 2o. Parcequ'ils avaient augmenté la Liste des Articles de Contrebande, en y comprenant les Munitions navales et le Bois de Construction pour la Marine; et 3o. Parcequ'ils avaient même compris sous la Dénomination de Contrebande de Guerre les Vivres et Provisions de Bouche; les Ministres Plénipotentiaires s'attachent à justifier leur Gouvernement au Sujet de ces différens Points de l'Accusation, en démontrant qu'elle est sans Fondement. Ils font voir, que le Traité de Commerce entre les Etats-Unis et la France laissait les premiers en parfaite Liberté de former des Stipulations de Commerce semblables avec d'autres Nations. Si, dans des Cas particuliers, des Ci-

citoyens Français ont eu à se plaindre d'Inconvéniens, et de Vexations, inévitables dans les Circonstances du Moment, les Ministres déclarent, que leur Gouvernement est prêt à examiner de nouveau les différens Grieffs, dont il s'agit, et à donner toute Satisfaction équitable. Les Ministres font entendre, qu'avec ces Dispositions à l'Egard de la France le Gouvernement Fédéral s'était attendu à trouver dans celui de France des Dispositions semblables, afin de faire cesser ou réparer les Plaintes graves et nombreuses que l'Amérique avait à faire contre la France. Ces Plaintes peuvent être rangées dans deux Classes différentes; de la première sont les Réclamations de Sujets Américains, la Justice desquelles n'est pas contestée, mais auxquelles on n'a pas satisfait encore; à la seconde Classe appartiennent les Réclamations provenant de Captures et de Confiscations, dont l'illégalité n'a pas été reconnue encore. De ces deux Sortes de Réclamations résulte une Dette très-considérable, pour l'Acquittement de laquelle les Ministres Plénipotentiaires d'Amérique s'adressent à la Justice et à la bonne Foi du Gouvernement Français. Ils passent ensuite à des Grieffs plus considérables par leur Montant, plus intéressans par leur Nature, et plus graves par leurs Conséquences. Ce sont : 10. l'Arrêté du Directoire Exécutif de France du 2 Juillet, 1796, portant que le Pavillon des Neutres sera traité par la France de la même Manière qu'il se laisse traiter par les Anglais; Arrêté également contraire au Droit des Gens et aux Traités qui subsistent entre les Etats-Unis et la France, comme les Ministres Américains démontrent par l'Analyse qu'ils font de cet Acte.—Des Résolutions semblables sont prises dans les Indes Occidentales par les agens du Directoire; la Conséquence en est des Déprédations énormes du Commerce Américain. 20. L'Arrêté du Directoire de France du 2 Mars, 1797, par lequel, à Cause des Concessions faites à la Grande-Bretagne par l'Amérique dans le Traité de Londres de 1794, et que la France réclame également en Vertu de son Traité d'Amitié et de Commerce de 1778 avec les Etats-Unis, il modifie arbitrairement ce dernier traité de 1778, en

déclarant confiscables les Propriétés ennemies à Bord des Bâtimens Américains, en augmentant la Liste des Marchandises de Contrebande, en déclarant Pirate tout Américain qui tiendrait un Grade Militaire des Ennemis de la France, ou qui formerait Partie des Equipages de ces mêmes Ennemis, enfin en exigeant des Capitaines Américains des Papiers de Neutralité, que les Traités entre les deux Nations, n'avaient pas déclarés nécessaires. Les Ministres Américains font voir que le Gouvernement Fédéral était prêt à s'entendre avec la France sur la Prétention qu'en Vertu du Traité de Paris de 1778 elle formait d'être traitée sur le même Pied que la Grande-Bretagne ; mais que le Directoire aimait mieux modifier seul ce Traité d'une Manière arbitraire et violente ; ils démontrent de plus que les Principes établis par l'Arrêté du 2 Mars, 1797, diffèrent essentiellement des Articles 17, 18, et 21, du Traité de Londres de 1794, sur lesquels on avait prétendu calquer les Principes susmentionnés. Les Ministres s'appesantissent surtout sur l'Inconvenance d'exiger, pour Preuve de la Qualité neutre du Bâtiment Américain un RÔLE D'EQUIPAGE, Piece, dont le traité de 1778 ne fait point Mention. Les Déprédations les plus énormes du Commerce Américain ont été la Conséquence de cette Prétention nouvelle de la Part de la France. Nonobstant cet Etat de Choses, l'Amérique aime à ne reconnaître à la France aucunes Dispositions hostiles ; son Attachement pour la France est si fort qu'elle n'attribue son Eloignement actuel qu'à des Causes étrangères, qu'une Discussion franche et amicale serait capable d'éclaircir. Dans cette Vue le Gouvernement Américain a envoyé en France les trois Ministres Plénipotentiaires qui n'ayant pas été admis à traiter avec le Gouvernement Français dans les Formes usitées, ont composé ce Mémoire, qu'ils viennent d'adresser au Ministre des Relations Extérieures, en le priant avec Instance de le prendre en Considération, pour faciliter les Moyens de Rapprochement entre les deux Nations. Dans le Cas que cette Démarche n'eût pas l'Effet désiré, les Ministres Américains finissent par de-

mander que l'on ne mette plus d'Obstacles à leur Retour en Amérique.—

To the Minister of Foreign Affairs of the French Republic.

Citizen Minister,

The undersigned Ministers Plenipotentiary and Envoys Extraordinary from the United States of America to the French Republic, have been hitherto restrained by the expectation of entering on the objects of their mission in the forms usual among nations, from addressing to the Executive Directory, through you, those explanations, and reclamations with which they are charged by the government they represent. If this expectation is to be relinquished, yet the unfeigned wish of the United States to restore that harmony between the two republics, which they have so unremittingly sought to preserve, renders it the duty of the undersigned to lay before the government of France, however informal the communication may be deemed, some considerations, in addition to those heretofore submitted, relative to the subsisting differences between the two nations.

Openly and repeatedly have France and America interchanged unequivocal testimonials of reciprocal regard. These testimonials were given by the United States, with all the ardor and sincerity of youth. It is still believed that on the part of France they were likewise the offspring of real esteem. They were considered on the other side of the Atlantic as evidencing a mutual friendship to be as durable as the republics themselves. Unhappily the scene is changed; and America looks around in vain for the ally or the friend. The contrast both of language and of conduct, which the present so avowedly exhibits to a portion of the past, has been repeatedly attributed by France, to a disposition alleged to exist in the government of the United States, unfriendly to this republic, and partial towards its enemies.

That government, astonished at a reproach so un-

founded in fact, so contradicted by its declarations and its conduct, could scarcely consider the charge as serious, and has ever cherished the hope, that a candid review of its conduct founded on the documents, and aided by the arguments with which the Executive Directory has been furnished, would have rescued it from the injurious suspicion. This hope seems not to have been realized. The undersigned, therefore, deem it proper to precede their application for that justice which they claim from France, by an effort to remove the cause, which is alleged to have produced the injuries of which they complain. With this view, they pray the attention of the Executive Directory to a serious and candid reconsideration of the leading measures adopted by the government of the United States, and they persuade themselves, that however various and multiplied the channels may be through which misinformation, concerning the dispositions of that government, may have been received ; yet this reconsideration must remove unfounded prejudices and entirely exculpate the American nation from an accusation it knows to be unfounded, and believes to be supported by no single fact.

When that war which has been waged with such unparalleled fury, which, in its vast vicissitudes of fortune, has alternately threatened the very existence of the conflicting parties, but which, in its progress, has surrounded France with splendor, and added still more to her glory than to her territory, when that war first involved those nations with whom the United States were in habits of friendly intercourse, it became incumbent on their government to examine their situation, their connexions and their duties. America found herself at peace with all the belligerent powers. She was connected with some of them by treaties of amity and commerce, and with France by a treaty of alliance also. These several treaties were considered with the most serious attention, and with a sincere wish to determine by fair construction the obligations which they

really imposed.—The result of this enquiry was a full conviction, that her engagements by no means bound her to take part in the war, but left her so far the mistress of her own conduct as to be at perfect liberty to observe a system of real neutrality. It is deemed unnecessary to analyze those treaties in order to support the propriety of this decision, because it is not recollected ever to have been questioned and is believed not to admit of doubt.

Being bound by no duty to enter into the war, the government of the United States conceived itself bound by duties the most sacred to abstain from it. Contemplating man, even in a different society, as the natural friend of man, a state of peace, though unstipulated by treaty, was considered as imposing obligations not to be wantonly violated.

These obligations, created by the laws of nature, were in some instances strengthened by solemn existing engagements, of which good faith required a religious observance.

To a sense of moral right, other considerations of the greatest magnitude were added, which forbade the government of the United States to plunge them unnecessarily into the miseries of the bloody conflict then commencing. The great nations of Europe either impelled by ambition, or by existing or supposed political interests, peculiar to themselves, have consumed more than a third of the present century in wars. Whatever causes may have produced so afflicting an evil, they cannot be supposed to have been entirely extinguished, and humanity can scarcely indulge the hope, that the temper or condition of man is so altered as to exempt the next century from the ills of the past. Strong fortifications, powerful navies, immense armies, the accumulated wealth of ages and a full population, enable the nations of Europe to support those wars in which they are induced to engage, by motives which they deem adequate, and by interests exclusively their own. In all respects different is the situation of the United

States : possessed of an extensive unsettled territory, on which bountiful nature has bestowed, with a lavish hand, all the capacities for future legitimate greatness, they indulge no thirst for conquest, no ambition for the extension of their limits. Encircled by no dangerous powers, they neither fear, nor are jealous of their neighbours, and are not on that account obliged to arm for their own safety. Separated from Europe by a vast and friendly ocean, they are but remotely, if at all, affected by those interests, which agitate and influence this portion of the globe. Thus circumstanced, they have no motive for voluntary war. On the contrary, the most powerful considerations urge them to avoid it.—An extensive and undefended commerce, peculiarly necessary to a nation which does not manufacture for itself, which is, and for a long time to come will be almost exclusively agricultural, would have been its immediate and certain victim. The surplus produce of their labour must have perished on their hands, and that increase of population, so essential to a young country, must, with their prosperity, have sustained a serious check. Their exertions too would not have been considerable, unless the war, had been transferred to their own bosom.

Great as are the means and resources of the United States for self-defence, it is only in self-defence that those resources can be completely displayed. Neither the genius of the nation, nor the state of its finances, admit of calling its citizens from the plough, but to defend their own liberty and their own fire-sides. How criminal must have been that government which could have plunged its constituents into a war, to which they were neither impelled by duty or solicited by interest ; in which they committed so much to hazard ; in which they must suffer, in order to act efficiently, and could only display their energy in repelling invasion ? But motives still more powerful than the calamities of the moment, have influenced the government of the United-States.

It was perhaps impossible to have engaged voluntarily in the existing conflict, without launching into the almost boundless ocean of european politics without contracting habits of national conduct, and forming close political connections which must have compromitted the future peace of the nation, and have involved it in all the future quarrels of Europe. A long train of armies, debts and taxes, checking the growth, diminishing the happiness, and perhaps endangering the liberty of the United States, must have followed the adoption of such a system. And for what purpose should it have been adopted? For what purpose should America thus burthen herself with the conflicts of Europe?—Not to comply with any engagements she has formed; not to promote her own views, her own objects, her own happiness, or her own safety; but to move as a Satellite around some greater planet, whose laws she must of necessity obey. In addition to these weighty considerations, it was believed that France would derive more benefit from the neutrality of America, than from her becoming a party in the war.

The determination then of the government of the United States to preserve that neutral station, in which the war found them, far from manifesting a partiality for the enemies of France, was only a measure of justice to itself and to others, and did not even derogate from that predilection for this republic, which it has so repeatedly expressed and displayed. Having avowed this determination, encreased motives of honor and of duty commanded its faithful observance. It is not a principle which remains now to be settled, that a fraudulent neutrality is no neutrality at all; and that the nation, which would be admitted to its privileges, must also perform the duties it enjoins. Had the Government of the United States declared itself neutral, indulged its partialities by granting favours unstipulated by treaty, to one of the belligerent powers, which it refused to another, it could no longer have claimed the immunities of a situation of which the obligations were forgotten,

it would have become a party to the war, as certainly as if war had been openly and formally declared, and it would have added to the madness of wantonly engaging in such a hazardous conflict, the dishonor of insincere and fraudulent conduct: it would have attained circuitously an object which it could not plainly avow, or directly pursue, and would have tricked the people of the United States into a war, which it could not venture openly to declare.

It was matter of real delight to the government and people of America, to be informed that France did not wish to interrupt the peace they enjoyed.

The undersigned have been induced to rest upon this first necessary and decisive step, taken by their government, although its propriety may not be controverted, from a conviction, that if the right of the United States, to observe a fair and honest neutrality be established, the general charges of an unfriendly disposition, made against them by France, must be relinquished, because the facts, by which those charges are supported, will be found to have grown inevitably out of that situation.

This measure was accompanied by another, which, in repelling so astonishing a charge as partiality for the enemies of France, deserves to be noticed. Soon after the Government of the United States had notified to its citizens the duties which its neutrality enjoined, Mr. Genet, the first minister from this republic, arrived at Philadelphia: although his conduct had been such as to give cause for serious alarm, although before he was even acknowledged as a minister, or had reached the authority which could inspect his credentials, he had assumed the functions of the government to which he was deputed. Yet that government resolved to see in him only the representative of a republic, to which it was sincerely attached, gave him the same warm and cordial reception which he had experienced from its citizens, without a single exception, from Charleston to Philadelphia. The then situation of France deserves to be remembered.

While the recollection adds, citizen minister, to the glory with which your nation is encircled, it establishes the sincerity of the United States.

The most formidable combination, the world had ever seen, threatened the extermination of this Republic. Austria, Germany, Prussia, Britain, Spain, Holland and Sardinia were in arms against France, and Russia was leagued in the coalition. Nor was this all. The republic, distracted by internal divisions, contained numerous enemies within its own bosom, and a considerable portion of its proper force was arrayed against itself. In such a state of things, the most sanguine might fear and the most ardent hesitate. Confident in their strength, and relying on success, the coalesced powers sought to arm in their cause the residue of the world, and deemed it criminal to acknowledge the sovereignty of the republic. The nations of Europe, even those who had not entered into the contest, were either themselves unwilling to acknowledge this sovereignty, or were deterred by fear from doing so. Had the partialities of America been against France, this example would have been followed. According to the rules of ordinary calculation the measure would have been safe, and consequently a government, feeling the attachments now so unjustly attributed to that of the United States, would have indicated those attachments by its adoption. Far from pursuing such a system the United States, unawed by the strength of the coalition, received with open arms the minister of this republic, acknowledged with enthousiasm the government which had deputed him, overlooked his extraordinary attacks on their sovereignty, and manifested a cordial friendship for his nation and a sincere wish for its success.

Scarcely were the first ceremonies of his reception over, when Mr. Genet displayed a disposition to usurp and exercise within the United States the choicest and most important duties and powers of sovereignty. He claimed the privileges of arming and embodying the citizens of America within their own territory, to carry on

from thence expeditions against nations with whom they were at peace, of fitting out and equipping, within their limits, privateers, to cruize on a commerce destined for their ports ; of erecting within their jurisdiction an independent judiciary, and of arraigning their government at the bar of the people. The undersigned will not ask in what manner France would have treated any foreign minister, who should have dared so to conduct himself towards this republic ? But in what manner would the American Government have treated such a minister, if the representative of a nation it viewed with coldness, or even indifference ? In what manner would it have treated him, had he been the representative of any other nation than France ? No man acquainted with that government can doubt how these enquiries ought to be answered. From the minister of France alone could this extraordinary conduct be borne with temper. To have continued to bear it, without perceiving and feeling its extreme impropriety, would have been to have merited the contempt as well of France as of the other powers of the earth. The Government of the United States did feel it ; but far from transferring to his nation that resentment which such conduct could not fail to excite, it distinguished strongly between the government and its minister, and the representations it made were in the language of a friend afflicted, but not irritated by the injuries it complained of. The recall of that minister was received with universal joy, as a confirmation that his whole system of conduct was attributable only to himself ; and not even the publication of his private instructions could persuade the American government to ascribe any part of it to this republic.

At the same time the exertions of the United States to pay up the arrearages of their debt to France, which had been unavoidably permitted to accumulate, their disinterested and liberal advances to the sufferers of St. Domingo, thrown suddenly upon them, without provisions or money, whose recommendation was, that they were Frenchmen and unfortunate ; the perseverance with

which they apologized for and ascribed any occasional injuries they sustained to the force of circumstances ; the interest which they continued openly to take in all the fortunes of this republic, manifested partialities of a very different sort from those which have been so unjustly attributed to them.

At this period too, a great principle was brought into discussion, the dispassionate consideration of which is essential to the fair estimate of the charges made by France against the government of the United States. The property of french citizens was taken by british cruizers and ships of war, out of american bottoms, and the American Government submitted to the practice. The propriety of submitting to it, depends entirely on the naked right of the captors, under the existing circumstances of the case, to exercise such a power. The circumstances were these : In the treaty of commerce made between France and the United States in February 1778, it was stipulated in substance, that neither party should take out of the vessels of the other the goods of its enemy, but the character of the bottom should be imparted to its cargo. With England the United States had made no stipulation on the subject.

It follows then that the rights of England, being neither diminished or encreased by compact, remained precisely in their natural state, and were to be ascertained by some pre-existing acknowledged principle.

This principle is to be searched for in the law of nations. That law forms, independent of compact, a rule of action by which the sovereignties of the civilized world consent to be governed. It prescribes what one nation may do without giving just cause of war, and what, of consequence, another may and ought to permit, without being considered as having sacrificed its honor, its dignity or its independence.

What then is the doctrine of the law of nations on this subject ? Do neutral bottoms, of right and independent of particular compact, protect hostile goods ? The question is to be considered on its mere right, unin-

fluenced by the wishes or the interests of a neutral or belligerent power.

It is a general rule, that war gives to a belligerent power a right to seize and confiscate the goods of its enemy. However humanity may deplore the application of this principle, there is perhaps no one to which man has more universally assented, or to which jurists have more uniformly agreed. Its theory and its practice have unhappily been maintained in all ages. This right then may be exercised on the goods of an enemy wherever found, unless opposed by some superior right. It yields by common consent to the superior right of a neutral nation to protect, by virtue of its sovereignty, the goods of either of the belligerent powers, found within its jurisdiction. But can this right of protection, admitted to be possessed by every government within its own limits, in virtue of its absolute sovereignty, be communicated to a vessel navigating the high seas ?

It is supposed that it cannot be so communicated ; because the ocean being common to all nations, no absolute sovereignty can be acquired in it : the rights of all are equal, and must necessarily check, limit and restrain each other. The superior right therefore of absolute sovereignty, to protect all property within its own territory, ceases to be superior, when the property is no longer within its own territory, and may be encountered by the opposing acknowledged right of a belligerent power, to seize and confiscate the goods of his enemy. If the belligerent permits the neutral to attempt without hazard to himself, thus to serve and aid his enemy, yet he does not relinquish the right of defeating that attempt whenever it shall be in his power to defeat it. Thus it is admitted that an armed vessel may stop and search at sea a neutral bottom, and may take out goods, which are contraband of war, without giving cause of offence, or being supposed in any degree to infringe neutral rights. But this practice could not be permitted within the rivers, harbours or other places of a neutral, where its sovereignty was complete. It follows then that the full right of affording protection to all property whatever, whithin

its own territory, which is inherent in every government, is not transferred to a vessel navigating the high seas. The right of a belligerent over the goods of his enemy within his reach, is as complete, as his right over contraband of war ; and it seems a position not easily to be refuted, that a situation that will not protect the one, will not protect the other. A neutral bottom then does not of right, in cases where no compact exists, protect from his enemy the goods of a belligerent power.

To this reasoning the practice of nations has conformed, and the common understanding of mankind seems to have assented. Vattel, B. 3. Sect. 115, says positively, " that effects belonging to an enemy, found on board a neutral ship are seizable by the rights of war."

Vattel is believed to be supported by the most approved writers on the same subject. It is deemed unnecessary to multiply citations to this point ; because France herself is supposed to have decided it. In her maritime ordonnance of the year 1744, which is considered as having been in force in 1778, enemy goods in neutral bottoms, generally, are declared liable to seizure and confiscation. From the operation of this rule are excepted the vessels of Denmark and the United Provinces, to whom special treaties secured the exception. In the ordonnance too of the 26th July, 1778, the first article of which is considered as forbidding the cruizers of France to stop and bring into port neutral vessels, having on board the goods of an enemy, a power is reserved to revoke the privilege granted to neutrals by that article, if the enemy should not grant the same privilege within six months from the publication of that regulation. This clearly indicates a conviction, that the exemption from the capture of the goods of an enemy, which should be found on board the vessel of a neutral power, not having stipulated such an exemption by treaty, was a privilege granted by the ordonnance, and that the mere revocation of the ordonnance would abolish the privilege, and restore the ancient rule. It will not be contended that France has continued in a long course of practice and of legislation opposed to her own opinion of the law

nations. It must then be considered as the opinion of France, that under that law neutral bottoms afford no protection to the goods of an enemy. This principle, thus admitted to have been established, is supposed by some to have been changed by the armed neutrality. A new law of nations, it is contended, was introduced, by that confederation. But who were the parties to that federation, and what was its object ? The northern maritime powers of Europe united to protect by force, in their own bottoms, during the then existing war, the goods of either and of all the belligerent powers. The compact in its own nature was confined with respect to its objects and its duration. It did not purport to change nor could it change permanently and universally the rights of nations not becoming parties to it. It did indeed hold forth the promise of future more permanent and more general engagements for the same object, but such engagements were never formed. How then can this temporary and partial convention be considered as altering, radically and generally, principles which have been universally adopted, and in the modification of which all have an interest ? Would France herself admit that a combination, such as that which constituted the armed neutrality, may rightfully change the law of nations, and establish a new code of universal obligation ? It is believed that no nation on earth would more perseveringly oppose such an invasion of its sovereignty.

There seems then to be no solid ground for maintaining, that the general law of nations has been at all varied by the armed neutrality.

It remains to enquire whether the treaties, between France and the United States, pledge either nation to assert and establish the principle, that free bottoms make free goods.

The treaty of amity and commerce, concluded the 6th February 1778, stipulates reciprocally for the right of trading with and protecting the goods of the enemy of either party in the vessels of the other, and in turn surrenders its own goods found in the vessels of an enemy, but it contains no clause imposing on either party

the duty of extending the principle, or of supporting its application to other nations. The stipulations of that treaty are negative as well as affirmative. They specify as well the disabilities intended to be created and the duties to be imposed, as the privileges designed to be granted. Had it been intended that either nation should have been bound to maintain this principle in its intercourse with others, or should have been in any degree incapacitated from prosecuting freely that intercourse, without the previous admission of the principle, a stipulation to that effect would have been made. No such stipulation having been made, the parties cannot be presumed to have intended it. Indeed it would have been madness in the United States, under their actual circumstances, to have formed such an agreement. There being no express stipulation to this effect, it cannot be supposed to have been implied. Nations forming a solemn compact which ought to regulate their conduct towards each other which is to be resorted to as the standard for adjusting their differences, do not leave to implication such delicate and important points. Indeed if a great principle not mentioned is permitted to be implied, the object of a written agreement, which is itself to evidence all the obligation it creates, is totally defeated. But who is to make the implication, and to what extent is implication to be allowed? It is very easy to perceive, that the doctrine of implying in contracts stipulations never formed, would destroy all certainty of construction, and open a boundless field of controversy to the contracting parties.

It results from the very nature of a contract which affects the rights of the parties, but not of others, and from the admission of a general rule of action, binding independent of compact, which may be changed by consent, but is only changed so far as that consent is actually given, that a treaty between any two nations must leave to all others those rights which the law of nations acknowledges; and must leave each of the contracting parties subject to the operation of such rights. For

the truth of this position, believed to be so clear in itself, and which it is supposed the history of all Europe will illustrate, the ordonnance of 1744, already quoted, is considered as furnishing an unequivocal authority. By that ordonnance the law of nations is applied to all those neutrals with whom France had not stipulated, that the quality of their bottoms should be imparted to their cargoes, while those with whom such stipulations had been made are exempted from the application of the law.

The desire of establishing universally the principle that neutral bottoms shall make neutral goods, is perhaps felt by no nation on earth more strongly than by the United States. Perhaps no nation is more deeply interested in its establishment. It is an object they keep in view, and which, if not forced by violence to abandon it, they will pursue in such manner as their own judgment may dictate as being best calculated to attain it; but the wish to establish a principle is essentially different from a determination that it is already established. The interests of the United States could not fail to produce the wish: their duty forbid them to indulge it, when deciding on a mere right. However solicitous America might be to pursue all proper means, tending to obtain for this principle the assent of all or any of the maritime powers of Europe, she never conceived the idea of obtaining that consent by force.

The United States will only arm to defend their own rights: neither their policy nor their interests permit them to arm, in order to compel a surrender of the rights of others. These and other considerations, which have been submitted to the government of France, produced on the part of the United States a decision, that their bottoms could not of right protect the goods of a belligerent power from an enemy not bound to respect the principle. This decision was founded on the most perfect conviction, that it was enjoined by the law of nations; and that good faith, respect for truth, and for the duties of an upright and honest judgment, rendered it indispensable. This conviction remains un-

shaken. If those articles, which still appear conclusive to the American Government, have not the same operation on the judgment of France, they must at least be sufficient to evince the sincerity with which that government has acted, and to prove that its conduct, in this respect, was produced by a sense of duty, and not by any partiality for a nation against which it was, at that time, considerably irritated by other causes.

The undersigned, citizen minister, rely too implicitly on your candour and discernment, to apprehend, that you will estimate improperly, the motives which on this essential point have influenced and guided the United States.

The early decision of the American Government on this subject was immediately avowed, openly and amply supported by Mr. Jefferson, the then Secretary of State, in his letter to Mr. Genet, dated the 24th July, 1793 ; and in his letter to Mr. Morris, dated 16th August in the same year. The arguments, which those letters contain, were supposed to have satisfied the government of France, since its ministers in the United States no longer controverted the principle they supported. Indeed those arguments appeared too conclusive to permit a doubt concerning the success which would attend them.

In August 1794, when Mr. Monroe, the then minister of the United States to this Republic, was received into the bosom of the convention, France obviously did not consider the acknowledgment of this established principle of the law of nations, as indicating a partiality towards her enemy. The language used on the occasion could only have been used to the minister of a nation, whose friendship was valued, and whose conduct had evinced the sincerity of its professions. It was then declared "that the sweetest, the frankest fraternity united in effect the two Republics," and that "their union would be forever indissoluble." These declarations, made long after America had avowed its neu-

trality, and had avowed its acquiescence under the principle, that a belligerent power, unrestrained by particular treaty, may of right take out of the bottoms of a neutral, the goods of its enemy, demonstrate that neither that neutrality nor that acquiescence induced the want of a proper regard for France. The government of the United States still cherishes the hope, that this true and fair estimate, then made of its conduct, may be soon resumed by a nation whose friendship it has assiduously and unremittingly cultivated, by all those means which good faith and justice could permit it to use.

After the discussion of this interesting question was supposed to have been closed, and France was believed to have been entirely content with that system in which the United States found themselves bound to persevere, some complaints were made, not against the principles adopted by the government, but against the application of those principles to particular cases supposed not to come within them. The neutrality of the United States could not permit prize to be made of vessels belonging to nations with whom they were at peace, within their jurisdiction; or by privateers fitted out in their own ports. Regulations to this effect were necessarily made; and to enforce the observance of those regulations, was a duty not to be dispensed with. The right of one of the belligerent powers, to obtain the release of a vessel captured under such circumstances, was as sacred as the right of the captor to a vessel taken on the high seas and which according to the usages of war was lawful prize. The United States were bound to respect the rights of both. To do so, it was necessary to examine the facts; for which purpose, a tribunal, in which both parties might be fairly heard, was unavoidable. Some complaints were made of particular vexations, and each complaint has heretofore been particularly attended to. It is believed to be unnecessary to review these several cases, because the undersigned are entirely persuaded that explanations, already given, must have been completely

satisfactory. Should any one of them be still considered as furnishing subject for complaint, the undersigned will proceed to its investigation, with the most sincere desire to attain truth, and to redress the wrong, if any has been committed.

During this period, the causes of complaint against France, on the part of the United States, were by no means inconsiderable. Their commerce was not exempt from depredations, believed to be entirely unwarrantable, made upon it by the cruizers of this Republic.

On the 9th of May, 1793, the national convention passed a decree relative to the commerce of neutrals, the first article of which is in these words : “ The french
“ ships of war and privateers may stop and bring into
“ the ports of the Republic, such neutral vessels as are
“ loaded, in whole or in part, either with provisions
“ belonging to neutrals, and destined for enemy ports,
“ or with merchandize belonging to enemies.” In consequence of the remonstrances of the american minister, the convention, on the 23d May, declared : “ That the vessels of the United States are not com-
“ prized in the regulations of the decree of the 9th
“ May.” On the 28th of the same month the convention repealed the decree of the 23d. On the 1st July, they re-established it. On the 27th July, it was again repealed. Under the decree of the 9th May, the vessels of the United States were captured, brought into the ports of France, and their cargoes disposed of. Could this decree, citizen minister, be regarded otherwise than as infringing the laws of nations, the rights of neutrals, and the particular engagements, subsisting between France and the United States ?

When on the 8th June, in the same year, the British Government issued a similar order, its injustice produced a ferment throughout America, indicating strong dispositions immediately to oppose its execution by force. The letter of Mr. Jefferson, the then Secretary of State, to the Minister Plenipotentiary of the United States at London, dated the 7th Sept. 1793, and remonstrat-

ing against the order of the 8th June, contains so much justness of sentiment, and strength of argument, as to have been quoted by your predecessor, in his letter to Mr. Monroe of the 9th March, 1796.

It cannot escape you, citizen minister, that the arguments of Mr. Jefferson, concerning the order of the 8th June, apply conclusively to the decree of the 9th May; and that to them are to be added, those arguments which are to be drawn from the hardship of being absolutely compelled, without any alternative, to part with the cargoes in France, and those also which are drawn from the duties imposed by an express and solemn treaty.

Nothing can demonstrate more conclusively the real temper of the United States, than the difference between the reception given to the decree of the convention of the 9th May, and that which was given to the order of the British Cabinet of the 8th June.

A large number of american vessels too were for a long time detained at Bourdeaux, very much to the injury of the owners, without assigning a motive for such detention, or putting it in the power of the government to conjecture the cause of a measure, which so deeply affected the interest of their fellow citizens—These and other embarrassments were experienced, but they could not diminish the attachment of the United States to France. In the midst of them, prayers were offered up, through the whole extent of the American Continent, for the success of this Republic. The government, feeling the same sentiment, displayed it, at least as far as was compatible with the decent deportment required from a nation not a party in the war, and professing neutrality. Such would not have been the conduct of a government and people, in secret unfriendly to France.

Very strong and just resentments were at that time inspired by the hostile conduct of Britain. The instructions of June, 1793, whereby american vessels, laden with provisions for France, were brought into the ports of Britain, there to sell such cargoes, or to give security to

sell them in other ports in amity with England, and the still more offensive order of November the 6th, in the same year, whereby vessels laden with the produce of a french colony, or carrying provisions to such colony, were ordered to be brought in for adjudication ; added to the pre-existing causes of mutual irritation, had produced such a state of things, as to render it obvious, that the injuries complained of by America must be entirely done away, or that war was the inevitable consequence.

This state of things was not so altered by the order of the 8th January, 1794, revoking that of the 6th of November, 1793, as to promise a different result. But as a nation preferring peace to war will ever make a peaceful demand of reparation for injuries sustained, before that reparation is sought by the sword, and as the policy of America has ever been, "to pursue peace with unremitting zeal, before the last resource, which has so often been the scourge of nations, and could not fail to check the advanced prosperity of the United States, was contemplated ;" an Envoy Extraordinary was deputed to his Britannic Majesty. "Carrying with him a full knowledge of the existing temper and sensibility of his country, it was expected that he would vindicate its rights with firmness, and cultivate peace with sincerity."

Truly desirous, as the American Government was, of preserving peace with Britain, its determination was unalterable, not to preserve it, nor to receive compensation for injuries sustained, nor security against their future commission, at the expense of the smallest of its engagements to France. Explicit and positive instructions to this effect were given to Mr. Jay, and those instructions were freely communicated to the minister of this Republic, then at Philadelphia. The negotiation of the American Envoy terminated in a treaty in many respects desirable to the United States.

But however desirable its objects might be, the government of the United States would not have hesitated to reject them, had they been accompanied with any

stipulation violating or weakening its engagements to France. But it has been able to discern no such stipulation.—The twenty-fifth article of that treaty guards the rights of this Republic by the following clause: “ Nothing in this treaty contained shall, however, be construed or operate, contrary to former and existing public treaties with other sovereigns or states.” The treaty with France being a “ former and existing public treaty,” and it being thus provided that nothing contained in the treaty with Britain, “ should be construed or operate contrary to it,” the government of the United States did not apprehend that the treaty with Britain could be considered as affecting its relations to France. But such was its attention to its ally, that the instrument was, previous to its ratification, submitted to the consideration of the Minister of this Republic, who was invited to communicate freely to the government of the United States, such observations upon it as he might judge proper. Mr. Adet, in a letter addressed to Mr. Randolph, dated 12th Messidor, 3d year of the French Republic, (30th June, 1795) expresses his sense of this procedure in the following words: “ This frank measure is to me a sure guaranty of the friendship of the American Government towards France, and of the fidelity with which it always marks its conduct towards a faithful ally.” He then stated those reflections to which the reading of the treaty had given birth. The articles which relate to enemy goods in neutral bottoms, are mentioned without a comment. He contended, that the list of contraband was swelled, and that the 23d, 24th, and 25th articles of the treaty with Britain, ceded to that power advantages inconsistent with the previous cessions to France. This letter was answered by Mr. Randolph, on the 6th of July following, who proves, that no article was enumerated in the list of contraband, in the treaty between the United States and Britain, which was not of that description, previous to its formation, and independent of it; noticed briefly the subject of enemy goods in neutral bottoms; and

demonstrated, that the objections of Mr. Adet to the 23d, 24th and 25th articles were entirely founded on a misconstruction of them. This misconstruction was so apparent, that Britain has never claimed it, nor would the American Government ever have admitted it. The letter of Mr. Randolph closes the subject of enemy contraband and of enemy property taken out of neutral bottoms, with a paragraph, to which, citizen minister, your attention is solicited: "Hitherto, however, (says he) I have spoken upon principles of right. Upon any other principles, and more especially upon those of hardship and injury to a friend, it shall be a topic of the negotiation now opening between us. With the temper which will pervade the whole of it, I cannot doubt, that some modification may be devised, and it may be separated from the general treaty, so as not to be delayed by it."

It was then apparent, that the government of the United States, actuated by that friendship which transcends the line of strict obligation, was willing, gratuitously, to release her ally from those stipulations of a former treaty, which, in the course of events, were deemed to operate unfavourably to her. This readiness to concede, marked that friendship the more strongly, as the situations in which the two nations found themselves could not have been unforeseen, but was the very situation for which the article provides. The answer of Mr. Randolph concludes, with requesting an opportunity to remove any remaining doubts, should there be such, by further explanations: no remaining doubts were stated, and therefore, as well as for its contents, the letter was believed to be entirely satisfactory to Mr. Adet, and it was hoped, that this government, as well as that of America, would consider the treaty with Britain as an accommodation desirable by the United States, and not disadvantageous to France.

It is not easy to express the chagrin felt by the American Government on learning, that in this treaty the United States were supposed to have "knowingly and

evidently sacrificed their connections with this Republic, and the most essential and least contested prerogatives of neutrality." With the firmness of conscious integrity, the United States aver, that they have never knowingly sacrificed or impaired their connections with this Republic, nor the prerogatives of neutrality; but that they have, according to their best judgment, invariably sought to preserve both.

The undersigned will endeavour faithfully to state the impressions of the government they represent on this interesting subject. The objections made to ~~this~~ treaty by your predecessor in office, in his note to Mr. Monroe, dated 19th of Ventose, 4th year of the French Republic, one and indivisible (9th March, 1796) are,

1st. That the United States, besides having departed from the principles established by the armed neutrality, have given to England, to the detriment of their first allies, the most striking mark of an unbounded condescension, by abandoning the limits given to contraband by the law of nations, by their treaties with all other nations, and even by those of England with the greater part of the maritime powers.

2d. That they have consented to extend the denomination of contraband even to provisions. Instead of pointing out particularly, as all treaties do, the cases of the effective blockade of a place, as alone forming an exception to the freedom of this article, they have tacitly acknowledged the pretensions raised by England, to create blockades in the colonies, and even in France, by the force of a bare proclamation.

Mr. Adet, in his letter to Mr. Pickering, dated 25th Brumaire, 5th year of the French Republic, one and indivisible, (15th Nov. 1796,) has repeated the same objections, and has been pleased also to superadd some observations relative to the formation of such a treaty generally, and the circumstances attending its negotiation, in terms not to have been expected by the first, and almost only voluntary friend of this Republic.

These having been the only specific objections offici-

ally made to the treaty with Britain, by the government of France, either in Paris or in Philadelphia, are necessarily supposed to be the only objections which have occurred.

They have often been discussed on the part of the United States, but that discussion will be renewed, because, although the undersigned may be unable to suggest any argument not heretofore urged, they cannot resist the hope, that an attentive reconsideration of those arguments may give them a success which has not yet attended them.

The first objection may be supposed to consist of two parts. 1st. The abandonment of the principle, that neutral bottoms make neutral goods; an objection rather insinuated than expressed; and 2dly, the addition to the catalogue of contraband.

1st. On the first part of the objection, it is observable, that the statements of the late Minister of Exterior Relations, and of Mr. Adet, seem to admit, but certainly do not controvert the position, that previous to the formation of the armed neutrality, a belligerent power could rightfully take out of the bottoms of a neutral the goods of its enemy. This position is believed to be uncontrovertible; some of the arguments in support of it have been already detailed, and it is deemed unnecessary to repeat or to add to them. To this principle of the armed neutrality, with a departure from which, the United States seem to be impliedly charged, the note of Mr. de la Croix does not assign any obligation whatever; nor does he appear to consider it as having been engrafted by that confederation on the law of nations. On this point Mr. Adet has not been more explicit. He seems to have been content with vague insinuations, and not to have been willing to commit himself by a direct averment, that in consequence of the armed neutrality, the law of nations on this subject is changed. The undersigned are unwilling to combat at length, a proposition not positively advanced, which they deem so clearly indefensible, and will therefore refer to the brief observation already made respecting it.

It may not, however, be improper here to notice, that in February, 1778, when the treaty between France and the United States was entered into, the armed neutrality had not been formed; of consequence, the state of things on which that treaty operated, was regulated by the law of nations, as it clearly existed previous to the formation of the armed neutrality. It is supposed to be admitted, that according to that state of things, neutral bottoms could afford no protection to the goods of an enemy. The stipulation then of the article of that treaty, was understood at the time, by the contracting parties, to form an exception to a general rule, which would retain its obligation in all cases where it was not changed. If then the contracting parties had designed to impose on each other the necessity of extending this exception to other nations, so as to convert it into a general rule, they would have expressed this intention in their contract: not having expressed it, they must be considered as intending, that this exception should form a rule as between themselves, while the general rule should govern as with other nations who had not consented to change it.

It is also worthy of observation, that when this treaty was made, the United States were at war, and France at peace with Britain. In this state of things, which might have continued, had not war been declared, or hostilities commenced by England, the bottoms of France would have protected, from american cruizers, english property, while they would not have protected from british cruizers american property. This was the necessary result of that state of things under which the treaty was formed; America had consented to it; and neither could or would have complained.

It is also to be noticed, that before the negotiation with England had commenced, the Government of the United States had openly avowed that opinion on this subject, which its best judgment dictated. This opinion, perfectly unconnected with that negotiation, was known by all to form and regulate the basis of its conduct. The letters from Mr. Jefferson, already quoted,

had stated to the world the perfect conviction of the United States, that by the law of nations, a belligerent power, not restrained by particular treaty, might rightfully take out of the bottoms of a neutral the goods of its enemy ; as well as their determination, that they could not and ought not to oppose the exercise of this right. The right having been clearly and unavoidably admitted, and the determination to acquiesce under its exercise having been avowed openly, Mr. Jay could only solicit its surrender. Had no treaty been formed, or had that treaty omitted to mention the principle, the right would still have existed, would still have been acknowledged, and would still have been exercised. The treaty does not, in fact or in expression, cede a new privilege ; it regulates the exercise of one before existing, and before acknowledged to exist. The harsh means of exercising this right, which are given by the law of nations, are modified and softened by the treaty, and this is the only effect which the article on this subject has produced ; it was the only motive, and it was a sufficient motive for introducing it.

The second branch of this objection seems more to be relied on, and comes forward in a more decisive shape ; it is—That the United States have abandoned the limit given to contraband by the law of nations, by their treaties with all other nations, and even by those of England with a greater part of the maritime powers.

The limit of contraband is supposed to have been extended, by inserting in the catalogue, naval stores, and timber for ship-building.

To estimate rightly a charge so warmly made, it becomes indispensable to ascertain whether these articles are, independent of treaty, by the law of nations contraband of war : on this single point seems to rest the verity of the accusation.

It is regretted that those, who have averred the negative, have not been pleased to furnish authorities in support of the opinion they advance. Such authorities would have been considered with candour, and any con-

viction they might have produced would have been freely acknowledged. But no such authorities are furnished, and it is believed that none exist.

America solicitous to confine as much as possible, by common consent, the list of contraband ; but determined, however she might oppose its enlargement, not to attempt its diminution by force, was under the necessity of examining the subject, and of ascertaining the line of partition between the rights of neutrals and of belligerent powers.

As guides in such a search, she could only take the most approved writers on the law of nations. These are believed to class timber for ship-building, and naval stores for the equipment of vessels, among articles admitted to be contraband of war. Vattel (B. III. c. 7. sect. 112.) defines contraband goods to be " commodities particularly used in war : such are arms, military and *naval stores, timber**, horses, and even provisions in certain junctures, where there are hopes of reducing the enemy by famine." The treaty between France and Denmark, concluded in 1742, places tar, rosin, sails, hemp, cordage, masts and timber for ship-building on the catalogue of contraband : and Valin, in his commentary on the marine ordinances of France, (Vol. 2. page 264.) says that " of right these articles are now contraband, and have been so from the commencement of the present century." In conformity with these opinions has been that of America ; and if the law of nations was understood by the most approved jurists, she has not erred.

But the modern public law of nations, and modern treaties, are said to have established a different rule. If the modern public law of nations has changed the principle, such change is yet unknown to the United States. It is much to be wished, that more full and satisfactory information had been given in support of an opinion, a difference on which is alleged to have produced consequences so extremely calamitous.

It is not averred, that the armed neutrality has con-

* For ship-building.

stituted this modern public law. It is supposed that this cannot be averred, because France will never admit the right of a confederacy, whatever may be its power, to impose the law on those who are not parties to it. It is supposed also, that this cannot be averred for another reason. The members of the armed neutrality had not themselves agreed upon the articles which should be deemed contraband. Russia, the power originating that celebrated, though short-lived compact, published in 1780 the principles on which she would maintain the commerce of her subjects : one of these was, that the articles of contraband should be regulated by the 10th and 11th articles of her treaty of commerce with Great Britain.

Afterwards, Denmark entered into a convention with Russia for maintaining generally the principles agreed upon ; but on the subject of contraband in particular, Denmark adopted as the rule by which to be governed, her treaty of commerce with Great Britain, concluded the 10th of July, 1670, in the third article of which contraband goods are described to be “ *any provisions of war, as soldiers arms, machines, cannon, ships, or other things of necessary use in war.*” But by a convention concluded at London, on the 4th of July, 1780, between Great Britain and Denmark, to explain the treaty of commerce between the two powers, “ *Timber for ship-building, tar, rosin, copper in sheets, sails, hemp and cordage, and generally whatever serves directly for the equipment of a vessel, unwrought iron and fir planks excepted,*” are declared to be contraband.

Denmark having, in her convention with Russia adopted her treaty with England, made in 1670, as declaratory of those articles which she would consider as contraband, and having by her explanatory agreement with England substituted a particular enumeration of articles for a general description of them, not as an amendment, but as an explanation of the treaty of 1670 ; has taken a different rule, in the very compact referred to as establishing a modern public-law of nations, from that

taken by Russia. The rule of Denmark classes among contraband precisely the same articles which are enumerated as such in the treaty between the United States and Britain, and which are only found in that enumeration, because it is believed that the law of nations has unquestionably so placed them. Sweden and Holland too, in acceding to the armed neutrality, adopt their own treaties as the rule by which they will be respectively guided. There was then even among the parties to this agreement no fixed law of contraband. Had the Potentates of Europe designed to establish permanently and generally the principles of the armed neutrality, the war which originated that convention, would not have terminated without some general agreement concerning it : The efforts of Sweden to obtain a congress for examining and terminating the different concerns both of the powers at war and of the neutral states, could not have proved entirely abortive.

No argument then can be drawn from the armed neutrality in support of the position, that the modern public law of nations, relating to contraband, has been abandoned by the United States. No modern public law having been formed, the rule remains unchanged ; and, at the present moment, as well as when the treaty with France was formed, is believed to ordain as contraband the articles enumerated as such in the treaty with Britain.

But it is alleged that, in this treaty, the United States have abandoned the limits given to contraband, by their treaties with all other nations, and even by those of England with a greater part of the maritime powers.

It is true, that the United States, desirous of liberating commerce, have invariably seized every opportunity which presented itself to diminish or remove the shackles imposed on that of neutrals. In pursuance of this policy, they have on no occasion hesitated to reduce the list of contraband, as between themselves and any nation consenting to such reduction. Their pre-existing treaties have been with nations as willing as themselves to change the old rule : and consequently a stipulation to that effect, being desired by both parties, has been made

without difficulty. Each contracting party is deemed to have an equivalent for the cession made, in the similar cession, it receives from the party with whom it contracts. Neither requires of the other, as an additional consideration, that it shall propagate by the sword the principles which form the basis of their private agreements, and force unwilling nations to adopt them; nor that it should decline to regulate by treaty its interests with any other nation which should refuse to accede to them: as little could either suppose that its particular contract contained any thing obligatory on others, or was capable of enlarging or diminishing their rights. The treaties of the United States then with other nations can only establish the limits of contraband, as between the contracting parties, and must leave that subject, with nations not parties to the contract, to the law which would have governed, had such particular stipulation never been made. According to the existing state of things when the negotiations between the United States and Great Britain were opened, naval stores and timber for ship-building were, as between America and Britain, contraband of war: they would have retained this character had the treaty never been made: they would have retained it had the treaty contained no provision on the subject. The United States were truly desirous of excluding them from the list, but Britain was unwilling to do so. Had the United States possessed the means of coercion, their established policy, founded on the basis of justice, and their own peculiar situation, forbid a resort to these means for any other purpose than the defence of their own rights, or a compliance with their own engagements. It was not a case in which force would have been deemed justifiable; and the object, being unattainable by mutual consent, was unavoidably relinquished for the moment. Yet it was proper to enumerate the articles which were before contraband, and which continued to be so, because that enumeration notified to the merchants of the United States the hazard which their commodities would encounter on the seas, and because

also it prevents those vexatious altercations, which might otherwise have been produced by the efforts of one party to swell, and of the other to reduce the list.

If on the refusal of Britain to substitute any other rule concerning contraband, in the place of that established by the law of nations, France finds herself in a situation to be injured by an observance of her engagements with the United States, it is not the treaty with Britain, but that with France which has produced this situation. This was foreseen when that treaty was entered into, and did not prevent it. The stipulation concerning contraband was formed when France was at peace, and America at war; although that state of things did not long continue, yet its continuance was by no means deemed impossible. Notwithstanding this, the Government of the United States has manifested a willingness to change this stipulation, as well as that which respects enemies property in neutral bottoms, so soon as France complained of them: of this the letter from Mr. Randolph to Mr. Adet, already quoted, affords conclusive testimony.

It appears then on examining this objection to the treaty between the United States and Britain, that it has not added to the catalogue of contraband a single article; that it has ceded no privilege, has granted no right; and that it has not changed in the most minute circumstance the pre-existing situation of the United States in relation either to France or to Britain. Notwithstanding those truths, the Government of the United States has hastened to assure its former friend that, if the stipulations between them be found oppressive in practice, it is ready to offer up those stipulations a willing sacrifice at the shrine of friendship.

In vain will you search in this procedure for "a known and evident sacrifice on the part of the United States of their connections with this Republic, and of the most essential and least contested prerogatives of neutrality." In vain will you search for evidence of their "having given to England, to the detriment of their

first allies, the most striking mark of an unbounded condescension, by abandoning the limits given to contraband by the law of nations, by their treaties with all other nations, and even by those of England with the greater part of the maritime powers."

The United States feel these reproaches, as conscious innocence feels the imputation of guilt.

SECONDLY. It is also alleged, that "the United States have consented to extent the denomination of contraband even to provisions. Instead of pointing out particularly, as all treaties do, the cases of the effective blockade of a place, as alone forming an exception to the freedom of this article, they have tacitly acknowledged the pretensions raised by England to create blockades in our colonies, and even in France, by the force of a bare proclamation."

The objections to this article shall be considered according to its letter, and according to its operation.

The objectionable words are: "and whereas the difficulty of agreeing on the precise cases in which alone provisions and other articles not generally contraband may be regarded as such, renders it expedient to provide against the inconveniences and misunderstandings which might thence arise: It is further agreed that whenever any such article so becoming contraband according to the existing laws of nations, shall for that reason be seized, the same shall not be confiscated; but the owners thereof shall be speedily and completely indemnified; and the captors, or, in their default, the government under whose authority they act, shall pay to the masters or owners of such vessels the full value of all such articles, with a reasonable mercantile profit thereon, together with the freight and also the demurrage incident to such detention."

The admissions contained in this clause are,

FIRST, That provisions are not generally contraband, and

SECONDLY, That they are sometimes contraband.

An effort was made to establish the precise cases in

which alone they should be subject to seizure ; but America would only consent to consider them as contraband, in the case of an effective blockade, seige, or investment of a place ; while on the part of England this strict interpretation of the rule was not admitted : but it was contended that provisions became contraband, when there were reasonable hopes of reducing the enemy by famine. In this opposition of sentiment, to what have the United States consented ? “ To extend the denomination of contraband even to provisions ? ” “ To acknowledge tacitly the pretensions raised by England to create blockades in your colonies, and even in France, by the force of a bare proclamation ? ” “ To secure to the English alone the carriage of meals ? ” “ In a word, to have commerce only with England ? ” Reconsider the words themselves, and it will require no comment to prove how inapplicable to them are these assertions. The clause complained of, having stated the admission and the difficulty already mentioned, proceeds to say : “ It is further agreed that whenever any such articles, so becoming contraband according to the laws of nations, shall for that reason be seized, the same shall not be confiscated, but the owners thereof shall be speedily and completely indemnified.”

It is too clear to admit of contestation, that this clause does not declare provisions to be contraband, or admit of their seizure in any other case than where, “ according to the existing law of nations, they should become contraband : ” in such case the right to seize them is not given by this article, but is admitted by France and by all the world to exist independent of treaty. In such case they would have been seized had this stipulation never been entered into ; and would have been confiscated also. The only alteration, which is by the letter of the clause produced in the law of nations, is to exempt from confiscation goods which under that law would have been subject to it.

But it has been suspected to have an object and an operation in practice different from its letter. It has

been suspected to cover a design to admit substantially certain principles, with respect to blockades, which in theory are denied.

Incapable of duplicity, America with the pride of conscious integrity, repels this insinuation, and courts an investigation of the facts on which it is founded.

The government of the United States and that of Britain, having construed the law of nations differently in this respect, each would have acted upon its own opinion of that law: the privateers of England would have seized as contraband any goods, deemed such in their courts of admiralty; and the Government of the United States would have reclaimed such goods, and would have supported the demand in such a manner as its own judgment dictated. This procedure is not changed. The right to make such reclamation has not been relinquished, nor has the legality of the seizure, in any other case than that of an attempt to enter a place actually invested, been in any degree admitted.

It is true, that the British Government renewed the order concerning provisions about the time of the ratification of this treaty: but it is not less true, that the Government of the United States manifested a firm resolution to submit to no such construction, and remonstrated so seriously against it as to produce a revocation of the order. Nor is this all: claims for provisions seized in cases of a mere proclamation-blockade have been actually made, and have been actually decided in favour of the claimants. The British Government has acquiesced under such decisions by paying the sums awarded. These sums were not limited to a reasonable profit on the price of the commodity seized, but were regulated by its price at the port of destination, and consequently the actual as well as avowed principle of such decisions was, that the goods seized had not become contraband "according to the existing law of nations."

The intention of the government then, and the practice under the article, are in direct opposition to these injurious suspicions, the indulgence of which has pro-

duced such pernicious effects. It is even believed that the decision on this subject, will be one step towards the establishment of that principle for which America has never ceased to contend. It is also believed, and has ever been believed, that the article objected to would have a necessary tendency to encrease, and did in fact encrease the quantity of provisions imported from America into France and her colonies. The American commerce, being entirely in the hands of individuals, is consequently conducted by them according to their own views of particular advantage : they will unquestionably endeavour to supply the highest market, unless restrained from doing so by other considerations which render it unadvisable to attempt such a supply. In their calculations, the risk of reaching the market is too important an item to be passed over or forgotten. Every diminution of this risk adds to the number of those who will attempt the supply ; and consequently a knowledge that the voyage, should it even fail by the seizure of the vessel, would yet be profitable, must encrease the number of those who would make it.

It is plain then, that this article admits the seizure of provisions in no situation where they were not before seizable ; and encourages their transportation to France and her colonies, by diminishing the risk of such transportation.

It is also complained of, that this treaty has not, " as all treaties do, pointed out particularly the cases of the effective blockade of a place," as alone forming an exception to the freedom of provisions.

Articles in a treaty can only be inserted by consent. The United States therefore can never be responsible for not having inserted an article to which the other contracting party would not assent. They may refuse to make any change in the existing state of things prejudicial to themselves or to other powers ; and they have refused to make any such change. But it is not in their power to insert, as by common consent, an article, though merely declaratory of a principle which they

considered as certainly existing, and which they mean to support, if such common consent be unattainable. All that can be done, in such a case, is to leave the principle unimpaired, reserving entirely the right to assert it. This has been done ; the principle was left unimpaired, and has been since successfully asserted.

The United States are at all times truly solicitous to diminish as much as possible the list of contraband. It is their interest, in common with all other nations whose policy is peace, to enlarge, so far as they can be enlarged, the rights of neutrals. This interest is a sure guarantee for their using those means which they think calculated to effect the object, and which a just regard to their situation will permit. But they must be allowed to pursue the object in such a manner as may comport with that situation. While they surrender no actual right, in preserving which there is a common interest ; while they violate no pre-existing engagement (and these they have not surrendered or violated) they must judge exclusively for themselves how far they will or ought to go in their efforts to acquire new rights, or establish new principles. When they surrender this privilege, they cease to be independent, and they will no longer deserve to be free. They will have surrendered into other hands the most sacred of deposits—the right of self-government ; and in stead of the approbation, they will merit the contempt of the world.

Those parts of the treaty between the United States and Britain, which have been selected by France as injurious to her, have now been examined. The undersigned are too well convinced that they in no degree justify the enmity they are alleged to have produced, not to rely on a candid reconsideration of them as a sure mean of removing the impressions they are supposed to have made.

Before this subject is entirely closed, one other objection will be noticed. The very formation of a commercial treaty with England seems to be reprobated as furnishing just cause of offence to France ; and Mr.

Adet has permitted himself to say: "It was a little matter only to allow the English to avail themselves of the advantages of our treaty: it was necessary to assure these to them by the aid of a contract, which might serve at once as a reply to the claims of France, and as peremptory motives for refusals; the true cause of which it was requisite incessantly to disguise to her under specious pretexts. Such was the object of Mr. Jay's mission to London; such was the object of a negotiation enveloped from its origin in the shadow of mystery, and covered with the veil of dissimulation."

Passing over this extraordinary language, the undersigned, being only desirous of producing accommodation by the exhibition of truth, will consider the opinion which is obliquely hinted, and the fact which is directly averred.

The practice of forming commercial treaties is so universal among other nations, having any commercial intercourse with each other, that it seems unnecessary to discuss their utility. The right to form these treaties has been so universally asserted and admitted, that it seems to be the inseparable attribute of sovereignty, to be questioned only by those who question the right of a nation to govern itself, and to be ceded only by those who are prepared to cede their independence.

But the prosperity of the United States is, in a peculiar degree, promoted by external commerce. A people almost exclusively agricultural have not within themselves a market for the surplus produce of their labour, or a sufficient number and variety of articles of exchange to supply the wants of the cultivator: they cannot have an internal, which will compensate for the loss of an external commerce; they must search abroad for manufactures, and for many other articles which contribute to the comfort and convenience of life, and they must search abroad also for a market for that large portion of the production of their soil, which cannot be consumed at home. The policy of a nation thus circumstanced, must ever be to encourage external commerce, and to

open to itself every possible market for the disposition of its superfluities, and the supply of its wants. The commercial and manufacturing character and capacities of England must turn into that channel a considerable portion of the commerce of any nation under the circumstances of the United States. It is a market too important and too valuable to be voluntarily closed ; in consequence, a considerable portion of their commerce has taken that direction, and a continual solicitude has been manifested to regulate and secure it by contract. To abolish this commerce, or to refuse to give it permanence and security by fair and equal stipulations would be a sacrifice which no nation ought to require, and which no nation ought to make. In forming her treaty of amity and commerce with the United States, France claimed no such prerogative. That treaty declares the intention of the parties to be, "to fix in an equitable and permanent manner the rules which ought to be followed relative to the correspondence and commerce, which the two parties desire to establish between their respective countries, states, and subjects ;" and that "they have judged that the said end could not be better obtained than by taking for the basis of their agreement the most perfect equality and reciprocity ; and by carefully avoiding all those burthensome preferences, which are usually sources of debate, embarrassment and discontent ; by leaving also each party at liberty to make respecting commerce and navigation, those interior regulations which it shall find most convenient to itself ; and by founding the advantage of commerce solely upon reciprocal utility, and the just rules of free intercourse ; reserving withal to each party the liberty of admitting at its pleasure other nations to a participation of the same advantages." The treaty itself contains no stipulation in any degree contradictory to these declarations of the preamble, or which could suggest a suspicion that under those declarations was concealed a wish to abridge the sovereignty of the United States with respect to treaties, or to controul their interests in regard to commerce.

In forming a commercial treaty with Britain, therefore, in which no peculiar privilege is granted, the government of the United States believed itself to be transacting a business exclusively its own, which could give umbrage to none, and with which no other nation on earth would consider itself as having a right to interfere. There existed consequently no motive for concealing from or declaring to France, or any other power, that the negotiations of Mr. Jay might or might not terminate in a commercial treaty. The declaration therefore was not made; nor is it usual for nations about to enter into negotiations, to proclaim to others the various objects to which those negotiations may possibly be directed. Such is not, nor has it ever been the practice of France. To suppose a necessity or a duty on the part of one government thus to proclaim all its views, or to consult another with respect to its arrangements of its own affairs, is to imply a dependence, to which no government ought willingly to submit. So far as the interests of France might be involved in the negotiation, the instructions given to the negociator were promptly communicated. The minister of this republic was informed officially that Mr. Jay was instructed not to weaken the engagements of the United States to France. Further information was neither to have been required or expected; indeed, that which was given furnished reason to suppose, that one of the objects of the negotiation with Great Britain was a commercial treaty. Why then such unnecessary and unmerited sarcasms against a cautious and unoffending ally? Those objects which she pursued were such as an independent nation might legitimately pursue, and such as America never had dissembled, and never deemed it necessary to dissemble her wish to obtain. Why should an effort be made to impress France with an opinion, that Mr. Jay was not authorised to negotiate a commercial treaty with Britain, when the fixed opinion of America had ever been, that France could not be and ought not to be dissatisfied with the formation of such a treaty? Why should

the minister of France have been informed officially, that Mr. Jay was especially instructed not to weaken the engagements of the United States to France, if it was intended to convince that minister, that his power did not extend to subjects in any degree connected with those engagements? To what purpose should the government of the United States have practised a deception deemed by itself totally unnecessary, and which its utmost efforts could not long continue? It requires an equal degree of folly and vice to practice an useless fraud which must inevitably and immediately be detected, and the detection of which must expose its author to general infamy, as well as to the enmity of those on whom the fraud had been practised. These considerations ought to have produced some hesitation concerning the fact. The testimony in support of it ought to have been very positive and very unexceptionable before it received implicit faith. It should have been very clear that there was no mistake, no misunderstanding concerning the information communicated, before the charge was made in such terms as the minister of France has been pleased to employ: but the testimony is believed to be satisfactory, that the government of the United States has not endeavoured to impress on France any opinion on this subject, which the fact of the case did not warrant. The declaration of Mr. Randolph, made July 8th, 1795, is full to this point. It is in these words: "I never could with truth have informed the French minister, that the mission, as set forth in the President's message to the senate, contemplated only an adjustment of our complaints; if by this phrase it be intended to exclude commercial arrangements. I could have no reason for saying so, since the French Republic could have had nothing to do with our commercial arrangements, if they did not derogate from her rights: it could have answered no purpose when so short a time would develop the contrary—I never did inform the french minister as is above stated.

" The only official conversation, which I recollect

with Mr. Fauchet upon this subject, was when I communicated to him, with the President's permission, that Mr. Jay was instructed not to weaken our engagements to France : neither then nor at any other time in official, or unofficial conversation, did I ever say to him that nothing but the controversies under the old treaty and the spoliation were contemplated.

“ Mr. Fauchet sometime ago said to me, that he understood from what I said, that Mr. Jay was not authorized to treat of commercial matters. I told him that he misunderstood me ; no letter has ever passed upon this subject.”

If then, Mr. Randolph did give Mr. Fauchet the information contended for, it is plain that he never was authorized to do so ; but the considerations already detailed render it infinitely more probable, that Mr. Fauchet has misunderstood Mr. Randolph, than that Mr. Randolph has misinformed Mr. Fauchet.

The undersigned have taken, they trust, a correct view of the leading and influential measures adopted by the Government of the United States : they have endeavoured to state with plainness and with candour the motives which have occasioned the adoption of those measures, and the operation they are believed to have. They have shewn, that if America is to be reproached with partialities, irreconcilable with her neutral situation, it is not by France that those reproaches ought to be made. They have been induced to take this review by a hope, which they cannot relinquish without regret, that it may contribute to efface impressions which misrepresentation may have made, and to take from the intentions and conduct of the government they represent, that false colouring which unfriendly pencils have so profusely bestowed upon them. They are anxious still to cherish the hope, that by exposing frankly and sincerely the sentiments which have hitherto guided their nation, they may restore dispositions on the part of France, compatible with the continuance of those sentiments.

Complaints have been made that in the application in particular cases of those general principles, which the neutral station of the United States rendered indispensable, inconveniencies and vexations which were unavoidable, have been sometimes sustained. These complaints have been separately and fully discussed.

The undersigned persuade themselves, that the explanations which have been given respecting them, if not entirely satisfactory, have yet been such as to prove the good faith and upright intention which have never ceased to direct the conduct of the United States.

If notwithstanding this good faith and the purity of these intentions, the difficulty of their situation has in any case produced even an involuntary departure from those principles by which they professed to be guided, they are ready to consider that case and to repair any fault which may inadvertently have been committed. With these dispositions on their part, with this consciousness of having never ceased to merit the friendship and esteem of the french nation, with a conviction that a temperate and thorough view of the past cannot fail to remove prejudices, not warranted facts, the United States have relied confidently on the justice of France for a discontinuance and reparation of those serious and heavy injuries, which have been accumulated on them.

Desirous of establishing, not the dependence of a weak on a powerful nation, but that real and cordial friendship, the willing and spontaneous offering of generous minds, which can only be lasting when evidenced to be mutual, and can only be preserved when bottomed on reciprocal justice, the undersigned will now represent with candour and frankness the well founded complaints with which they are charged.

These complaints consist :—

Of claims uncontroverted by the Government of France, but which remain unsatisfied, and

Of claims founded on captures and confiscations, the illegality of which has not yet been admitted.

In the first class of cases are arranged ;

Firstly, Those whose property has been seized under the decree of the national convention of the 9th May, 1793.

Secondly. Those who are entitled to compensation in consequence of the long detention of their vessels at Bourdeaux in the years 1793 and 1794.

Thirdly. The holders of bills and other evidences of debts due drawn by the colonial administrations in the West-Indies.

Fourthly. Those whose cargoes have been appropriated to public use without receiving therefor adequate payment ; and

Fifthly. Those who have supplied the government under contracts with its agents, which have not yet been complied with on the part of France.

These well founded claims of american citizens, thus originating in voluntary and important supplies, in the forcible seizure of valuable property, accompanied with promises of payment, and in injurious detentions, constitute a mass of debt which the justice and good faith of the French Government cannot refuse to provide for, and which is too considerable to be unnoticed by that of the United States. The undersigned are instructed to solicit your attention to this subject, and they would persuade themselves that they do not solicit in vain. So many circumstances concur to give force to the application, that they leave it to your government, in the confidence that no additional representations can be necessary.

They pass to complaints still more important for their amount, more interesting in their nature, and more serious in their consequences.

On the 14th Messidor, 4th year of the French Republic, one and indivisible (July 2d 1796) the Executive Directory decreed, "That all neutral or allied powers shall without delay be notified that the flag of the French Republic will treat neutral vessels, either as to confiscation, as to searches or capture, in the same manner

as they shall suffer the English to treat them." This decree, in any point of view in which it can be considered, could not fail to excite in the United States the most serious attention. It dispenses at once as they conceive with the most solemn obligations which compact can create, and consequently asserts a right on the part of France, to recede at her discretion from any stipulations she may have entered into. It has been demonstrated that governments may by contract change, as between themselves, the rules established by the law of nations, and that such contract becomes completely obligatory on the parties, though it can in no manner affect the rights of others; yet by this decree, allies with whom such stipulations exist, are to be treated without regard to such stipulations, in the same manner as they are treated by others, who are bound by a different rule. This as it respects the United States is the more unfriendly, because a readiness has been manifested on their part so to modify by consent their treaty with France, as to reinstate the rules established by the law of nations.

The general terms too, in which this decree is conceived, threatened but too certainly the mischiefs it has generated, and the abuses which have been practised under it. Neutrals are to be treated as they shall permit the English to treat them. No rule extracted from the practice of England is laid down, which might govern the cruisers of France, or instruct the vessels of neutrals. No principles are stated, manifesting the opinion entertained of the treatment received from England, which might enable a neutral to controvert that opinion, and to shew that the English were not permitted to treat its flag as was supposed by the government of France. To judge from the decree itself, from any information given concerning it, or from the practice under it, those who were to be benefitted by its abuse, were to decide in what manner it should be executed; and the cruiser who should fall in with a valuable vessel had only to consult his own rapacity,

in order to determine whether an english privateer, meeting a vessel, under similar circumstances, would capture and bring her into port. Multiplied excesses, and accumulated vexations could not but have been apprehended from such a decree, and the fact has realized every fear that was entertained concerning it. It has been construed even in Europe to authorize the capture and condemnation of american vessels, for the single circumstance of their being destined for a british port. At no period of the war has Britain undertaken to exercise such a power. At no period of the war has she asserted such a right. It is a power which prostrates every principle of national sovereignty and to which no nation can submit without relinquishing at the same time its best interests and sacrificing its dearest rights. This power has been exercised by France on the rich and unprotected commerce of an ally, on the presumption that that ally was sustaining the same injuries from Britain, at a time when it is believed that the depredations of that nation had ceased, and the principle of compensating for them had been recognized.

In the West-Indies similar depredations have been experienced. On the 1st of August 1796, the special agents of the Executive Directory to the Windward Islands, decreed that all vessels loaded with contraband, should be seized and confiscated for the benefit of the captors.

On the 7th Frimare, 5th year of the French Republic, one and indivisible (27th November, 1796) the commission, delegated by the French Republic to the Leeward Islands, resolved, that the captains of french national vessels and privateers are authorized to stop and bring into the ports of the colony, american vessels bound to english ports, or coming from the said ports.

On the 19th Pluviôse, 5th year of the French Republic, one and indivisible, (February 1st, 1797) Victor Huges and Lebas, the special agents of the Executive Directory to the Windward Islands passed a decree subjecting to capture and confiscation neutral vessels destined

for the Windward and Leeward Islands of America, delivered up to the English, and occupied and defended by the emigrants. These ports are said to be, Martinico, St. Lucie, Tobago, Demerara, Berbice, Essequibo, Port-au-Prince, St. Marks, L'Archaye, and Jeremie. The decree also subjects to capture all vessels which have cleared out for the West-Indies *generally*.

The undersigned will not detain you, citizen minister, for the purpose of proving how directly and openly these decrees violate both the law of nations, and the treaty between France and the United States.

They have been executed on the officers and crews of the captured vessels, in a manner by no means calculated to mitigate their rigor.

The decree of the fourteenth of Messidor, was soon followed by another which has spared but little of the american commerce, except what has fortunately escaped the pursuit of the cruisers of France. On the twelfth Ventôse, 5th year, (2d March, 1797) the Executive Directory, considering the treaty of amity, commerce and navigation, concluded at London, the 19th of November, 1794, between the said United States and England, as containing concessions of privileges to Britain which, under the treaty of February, 1778, might be enjoyed by this Republic also, proceeds to modify the treaty between France and the United States, by declaring enemies goods, in american bottoms, liable to capture and confiscation; by enlarging the list of contraband; and by subjecting to punishment, as a pirate, any american citizen holding a commission given by the enemies of France, as well as every seaman of that nation, making a part of the crew of enemies ships. The decree next proceeds to exact from Americans, papers which had been made necessary to establish the neutrality of foreign vessels, generally, by the ordinance of the 26th of July, 1778, but which had never been considered as applying to the United States, which required papers their vessels could not be supposed to possess, and which the treaty between the

two nations was supposed to have rendered unnecessary.

The basis taken by the Executive Directory, on which to rest their modification of the treaty of the 6th of February, 1778, is, that by the treaty of the nineteenth of November, 1794, *particular favours in respect of commerce and navigation have been granted to England.*

It has been demonstrated, that no particular favours, in respect of commerce or navigation, have been granted to England. That treaty has been shewn only to recognize, regulate and moderate the exercise of rights before possessed, and before openly acknowledged to be possessed—rights which France and America had reciprocally ceded to each other, without requiring, as a condition of the cession, that either should compel England to form a similar stipulation.

But to admit for a moment that the treaty with England might be considered as stipulating favours not before possessed; yet the American Government did not so understand that treaty, and had manifested a disposition to modify, by common consent, its relations with this republic, in such manner as to reinstate a rule, which has been voluntarily changed. It cannot but be sincerely regretted, because it seemed to indicate an unfriendly temper, that France has deemed it more eligible to establish by force, in opposition to her treaty, a principle which she deemed convenient, than to fix that principle on the fair basis of mutual and amicable agreement.

But the clause, under which these modifications are justified, is in these words: “The most Christian King and the United States engage mutually not to grant any particular favour to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same favour freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional.” If these stipulations unequivocally amounted to the grant of favours, still the grant is not gratuitous. The concessions on the part of the United States are made on condition of similar concessions on

the part of Britain. If, therefore, France chuses to consider them as modifications of the treaty of 1778, she can only do it by granting the reciprocal condition : on this supposition, she has either of the rules at her election, but she cannot vary from the first without a compact on her part to grant the reciprocal stipulation. Such a compact is in the nature of a national treaty.

But the rules laid down in the decree of the 12th Ventôse, 5th year, (March 2, 1797) as founded on the 17th, 18th, and 21st articles of the treaty of the 19th November, 1794, are materially variant from those articles. To demonstrate this, it is only necessary to contrast the rules of the decree, with the articles of the treaty on which those rules are said to be founded.

Articles of the Treaty of the nineteenth of November, 1794, as quoted by the Directory.

ARTICLE 17.

It is agreed, that in all cases where vessels shall be captured or detained *on just suspicion* of having on board enemies' property, or of carrying to the enemy any of the articles which are contraband of war, the said vessels shall be brought to the nearest or most convenient port ; and *if any property of an enemy should be found on board such vessel, that part only which belongs to the enemy shall be made prize*, and the vessel shall be at liberty to proceed with the remainder without any impediment.

And it is agreed, that all proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought for adjudication ; and in the payment or recovery of any indemnification adjudged or agreed to be paid to the owners or masters of such ships.

Rules established by the Arrêté of the Directory.

RULE 1.

According to the seventeenth article of the treaty of London, of the nineteenth of November, 1794, all merchandize of the enemy, or *merchandize not sufficiently proved to be neutral*, laden under the American flag,

shall be confiscated, but the vessel on board of which it shall be found, shall be released and restored to the owner. It is enjoined on the commissaries of the Executive Directory, to accelerate, by all the means in their power, the decision of contests which shall arise either on the validity of the prize-cargo, or on the freight and demurrage.

According to the article, when *on just suspicion* of having on board enemy's property, or of carrying to the enemy contraband of war, a vessel shall be brought into port, that part *only which belongs to the enemy* shall be made prize, according to the article, then the fact whether the property does or does not belong to an enemy is to be fairly tried. The party who would establish the fact, must prove it. The captor must show the justice of the suspicion on which the capture or detention was founded. The burden of the proof rests on him. If in truth and in fact the property does not belong to an enemy, or is not proved to belong to an enemy, it must be discharged. But the rule pursues a different course. The rule declares, that merchandize of the enemy, or *not sufficiently proved to be neutral*, laden under the american flag, shall be confiscated. The burden of the proof is shifted from the captor to the captured. The question to be tried is not solely whether the merchandize be in fact the property of an enemy, but also whether it be *sufficiently proved to be neutral*. The sufficiency of this proof is to be ascertained, not by general and satisfactory testimony, not by the great principles of truth, and the common understanding of mankind, but by the exhibition of certain papers demandable at the will of one of the parties, and not in the possession of the other. This may be a regulation which France chooses to establish; but certainly it is a regulation, essentially variant from the article it professes to resemble.

ART. 18.

In order to regulate what is in future to be esteemed contraband of war, it is agreed, that under the said de-

nomination shall be comprised all arms and implements serving for the purposes of war, by land or by sea ; as cannon, muskets, mortars, petards, bombs, grenades, carcasses, saucisses, carriages for cannon, musket-rests, bandoliers, gunpowder, match, saltpetre, ball, pikes, swords, head pieces, cuirasses, halberts, lances, javelins, horse furniture, holsters, belts, and generally all other implements of war ; as also timber for ship-building, tar or rosin, copper in sheets, sails, hemp and cordage, and generally whatever may serve *directly to the equipment of vessels*, unwrought iron, and fir plank only excepted.

RULE 2.

According to the 18th article of the treaty of London, of the nineteenth of November, 1794, to the articles declared contraband by the 24th article of the treaty of the 6th of February, 1778, are added the following articles :

Timber for ship-building, pitch, tar and rosin, copper in sheets, sails, hemp and cordage, and every thing which serves *directly or indirectly* for the armament and equipment of vessels, unwrought iron and fir planks excepted. These several articles shall be confiscated whenever they shall be destined or attempted to be carried to the enemy.

The immense number of articles, which may serve indirectly for the armament and equipment of vessels, are made contraband by the rule of the Directory, though they are not so by the article it professes to cite.

ARTICLE 21.

It is likewise agreed, that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act from any foreign prince or state, enemies to the party ; nor shall the enemies of one of the parties be permitted to invite, or endeavour to enlist in their military service any of the subjects or citizens of the other party ; and the laws against all such offences and aggressions shall be punctually executed. And if any subject or citizen of the said parties res-

pectively, shall accept any foreign commission or letters of marque, for arming any vessel to act as a privateer against the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen having such commission or letters of marque as a pirate.

RULE 3.

According to the 21st article of the treaty of London, of the 19th of November, 1794, every individual known to be an American, who shall hold a commission given by the enemies of France, as well as every seaman of that nation making a part of the crew of enemies ships, shall, by that act, be declared a pirate, and treated as such, without being allowed, in any case to allege that he was forced to do it by violence, menaces, or otherwise.

The government of the United States has never formed a treaty comprehending an article in any degree similar to this rule. It has never assented to such stipulations as they relate to its own citizens, or required them as they relate to those of other powers. The difference between the article and the rule requires no comment. Nor will the rule be commented on. The undersigned will only observe, that the article is by no means uncommon, but is to be found in most treaties of amity and commerce. The 21st article of the treaty with France, the 19th of the treaty with the United Provinces, the 23d of the treaty with Sweden, and the 20th article of the treaty with Prussia, contain similar stipulations. It is not easy to conceive a reason why it should not also be inserted in a treaty with England, or why its insertion should give offence to France.

But the fourth rule of the decree is, in its operation, the most extensive and the most seriously destructive. That rule declares, that "conformably to the law of the 14th of February, 1793, the regulations of the 21st of October, 1744, and of the 26th of July, 1778, concerning the manner of proving the property of neutral

ships and merchandize, shall be executed according to their form and tenor.

“ Every american ship shall, therefore, be a good prize, which shall not have on board a list of the crew in proper form, such as is prescribed by the model annexed to the treaty of the 6th of February, 1778, the observance of which is required by the 25th and 27th articles of the same treaty.”

This rule requires, that american ships and merchandize, in order to prove the property to be american, shall exhibit certain papers, and especially a rôle d'équipage, which are required of neutrals generally by the particular marine ordinances of France, recited in the decree of the Directory. But France and America have entered into a solemn treaty, one object of which was to secure the vessels of either party, which might be at peace, from the cruizers of the other which might be engaged in war. To effect this object, the contracting parties have not referred each other to the particular statutes, or ordinances of either government, but have enumerated the papers which should be deemed sufficient. They have done more : They have prescribed the very form of the passport which should establish the neutrality of the vessel, and prevent her being diverted from her course. The 25th and 27th articles of the treaty between the two nations, which are quoted by the Directory, and are considered by the undersigned as conclusive on this subject, are in these words :—

ARTICLE 25.

“ To the end that all manner of dissensions and quarrels may be avoided and prevented on the one side and on the other, it is agreed, that in case either of the parties hereto should be engaged in war, the ships and vessels belonging to the subjects or people of the other ally must be furnished with sea-letters or passports, expressing the name, property and bulk of the ship, as also the name and place of habitation of the master or commander of the said ship, that it may appear thereby, that the said ship really and truly belongs to the subjects of one of the parties, which passport shall be made out

and granted according to the form annexed to this treaty ; and they shall likewise be recalled every year, that is, if the ship happens to return home in the space of a year. It is likewise agreed, that such ships, being laden, are to be provided not only with passports, as above mentioned, but also with certificates containing the several particulars of the cargo, the place whence the ship sailed, and whither she is bound, that so it may be known whether any forbidden or contraband goods be on board the same ; which certificates shall be made out by the officers of the place, whence the ship set sail, in the accustomed form ; and if any one shall think it fit or adviseable to express in the said certificates the person to whom the goods on board belong, he may freely do so."

ARTICLE 27.

" If the ships of the said subjects, people or inhabitants of either of the parties, shall be met with either sailing along the coasts, or on the high seas, by any ship of war of the other, or by any privateers, the said ships of war or privateers, for the avoiding of any disorder, shall remain out of cannon shot, and may send their boats aboard the merchant ship, which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ship or vessel shall exhibit his passport, concerning the property of the ship, made out according to the form inserted in this present treaty ; and the ship, when she shall have shewed such passport, shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course."

It will be admitted, that the two nations possess the power of agreeing, that any paper, in any form, shall be the sole document, demandable by either from the other, to prove the property of a vessel and cargo. It will also be admitted, that an agreement so made becomes the law of the parties, which must retain its obligation.

Examine then the words of the compact, and determine by fair construction what will satisfy them.

The 25th article states substantially the contents of a

paper, which is termed a sea-letter or passport, and which "it is agreed that in case either of the parties should be engaged in war, the ships and vessels belonging to the subjects or people of the other ally must be furnished with." To what purpose are they to be furnished with this sea-letter or passport? The article answers: "To the end that all manner of dissensions and quarrels may be avoided and prevented, on one side and the other;" "That it may appear thereby that the ship really and truly belongs to the subjects of one of the parties."

But how will the passport "prevent and avoid all manner of dissensions and quarrels on one side or the other," if ordinances, both prior and subsequent to the treaty, are to be understood as controlling it, and as requiring other papers not contemplated in the public agreement of the two nations? How is it to appear from the passport, "that the ship really and truly belongs to the subjects of one of the parties," if it is denied that the passport is evidence of that fact, and contended that other papers, not alluded to in the treaty, shall be adduced to prove it?

But the 27th article is still more explicit. It declares, that when a merchant ship of one of the parties shall be visited by the ships of war or privateers of the other, "the commander of such ship or vessel shall exhibit his passport, concerning the property of the ship, made out according to the form inserted in the present treaty; and the ship, when she shall have shewed such passport, shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course." What is it that shall prove the property of the vessel? The treaty answers, the passport. But the decree of the Directory requires in addition certain other papers, perfectly distinct from the passport. The treaty declares, that "the ship when she shall have shewed (not the rôle d'équipage, or any other paper, required by the particular ordinances of

either nation, but) "such passport, shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course." Yet the vessels of America, after exhibiting "such passport," are not "free and at liberty to pursue their voyage;" they are "molested;" they are "chased;" they are "forced to quit their intended course;" they are "captured and confiscated as hostile property."

It is alleged, that the form of the passport, which is annexed to the treaty, manifests that certain acts were to be performed by the person to whom the passport is delivered, and that such person ought to prove the performance of those acts.

But the treaty, far from requiring such proof, absolutely dispenses with it. The treaty declares, that the passport shall itself evidence the property of the vessel, and secure it from molestation of any sort. By consent of the parties then, the passport is evidence of all that either party can require from the other. Neither the right to give such consent, or the obligation of a compact formed upon it, can, as is conceived, ever be denied, nor can the form of the passport, whatever it may be, change the compact.

But let the words of the model be examined. They are: "A tous ceux qui ces présentes verront : soit notoire que faculté et permission a été accordée à maître ou commandant du navire appelé..... de la ville de..... de la capacité de tonneaux ou environ, se trouvant présentement dans le port de qu'après que son navire a été visité et avant son départ, il prêtera serment entre les mains des officiers de la marine, que, ledit navire appartient à un ou plusieurs sujets de dont l'acte sera mis à la fin des présentes ; de même qu'il gardera les ordonnances et réglemens maritimes, et remettra une liste signée et confirmée par témoins, contenant les noms et surnoms, les lieux de naissance, et la demeure des personnes composant l'équipage de son navire, et de

tous ceux qui embarqueront, lesquels il ne recevra pas à bord sans connaissance et permission des officiers de marine ; et dans chaque port ou hâvre, il montrera la présente permission aux officiers et juges de marine."

It is material to observe, that the model requires the oath concerning the property of the vessel to be annexed to the passport, but does not require any other certificate, or the annexation of any paper whatever. Why this difference ? It is a solemn proof of that for which the article stipulates, and therefore the model expresses that the evidence of this fact shall be annexed, but it does not require the production of the evidence of any other fact.

It seems then to be demonstrated, that the sea-letter or passport, a model of which is annexed to the treaty, is, by solemn agreement, to be received by each party as conclusive testimony, that the vessel producing such passport is the property of a citizen of the other, and is consequently to continue her voyage without molestation or hindrance.

But let it be supposed, that the treaty on this subject was less conclusive, and that its stipulations had been ambiguously expressed ; yet it is certain, that it has been uniformly understood by both parties, as the undersigned have expounded it, and that neither France nor the United States, previous to the decree complained of, considered the vessels of either nation, producing the passport agreed on, as liable to capture for want of a rôle d'équipage.

For more than four years after her treaty with the United States, France was engaged in a war with Britain, and in the course of that time it was never suggested, that a rôle d'équipage was necessary for the protection of an american vessel. It does not weaken the argument that the United States were also parties to the war. The principle assumed is, that without the production of the papers required by the decree, the vessel does not appear to be, and cannot be considered as american property. If this principle be correct,

it would not cease to apply, because the United States were engaged in the war. Was America even engaged in the war on the part of France, a british vessel carrying american colours would not be secured by the flag she bore. It would be necessary to prove by her papers, or other admissible testimony, that the vessel was american property. If this fact cannot appear without a rôle d'équipage while the United States are at peace, neither could it appear without the same evidence if the United States were parties to the war.

About four years of the present war had also elapsed before this construction of the treaty, at the same time so wonderful and so ruinous, had disclosed itself. In the course of that time the ports of France were filled with the vessels of the United States. Very many of them sailed under contracts made for the government itself by its minister in Philadelphia. No one of them possessed a rôle d'équipage ; no one of them was considered on that account as being liable to condemnation. Indeed, in so many instances, vessels have been captured and discharged although this paper was not among those belonging to the ship.

Such a long course of practice appears to have evidenced unequivocally the sense of France on this subject.

It is too apparent to be questioned for a moment, that on the part of the United States no suspicion had ever been entertained, that such a paper could have been required. A rôle d'équipage could have been obtained with as much facility as that passport for which the treaty stipulates. Could it have been imagined that american vessels incurred the possible hazard of being retarded only one day in a voyage for want of such paper, it would in every instance have been supplied. No vessel would have sailed without it.

Your own mind, citizen minister, will suggest to you, with irresistible force, the extreme hardship of thus putting a new construction on a long existing contract, or of giving a new and unexpected extension to ancient municipal regulations, and of condemning thereby ves-

sels taken on the high seas for want of a paper not known to be required, when they sailed out of port. If a rôle d'équipage was really considered by France as necessary evidence of any fact, the establishment of which was deemed essential, common usage and those plain principles of justice which all nations should respect, indispensibly require that the regulations should first be made known to a neutral and friendly nation by other means than by the capture and confiscation of its property. If this measure had been announced to the government of the United States, before it had been put in practice, and american vessels had sailed without a rôle d'équipage, they would have taken upon themselves the hazard of such a procedure. But in a moment, when the ocean is covered with peaceful merchantmen, pursuing a just and lawful commerce, to bring into sudden operation a measure which had never before been applied to them, which had for so many years slept unheard of, and by the force of this regulation, to confiscate unguarded property which had been trusted to the seas, under the faith of solemn and existing treaties, and without a conjecture that this, more than any other formula, would have been required, is to impose on unoffending individuals a ruin from which no wise precautions, no human foresight could possibly have protected them.

On this subject then the undersigned appeal with confidence to the justice and equity of the French government.

But could it be conceded for a moment, that the Executive Directory might rightfully modify the treaty of France with the United States, by that of the United States with Britain, and might rightfully require a rôle d'équipage in order to establish the neutrality of a vessel, for want of which the vessel might be confiscated, yet, the cargo being proved to be neutral, ought to be safe.

According to the law of nations, the goods of an enemy found on board the ship of a friend, are liable to capture, and the goods of a friend found on board the ship of an enemy are safe. The United States and

France have consented to change this rule as between themselves. They have agreed, that the goods of an enemy found on board the vessels of either party shall be safe, and that the goods of either found on board the vessel of an enemy shall be liable to capture. The one part of this rule is in consequence of and dependent on the other. The one part cannot on any principle of justice be abandoned while the other is maintained.

In their treaty with England the United States retain unchanged the principle of the law of nations. If France modifies her treaty in this respect by that of England, she ought to take the principle entire. If in conformity to the treaty between the United States and England, France claims the right of taking enemies property found on board an american ship, then, in conformity with that treaty also, France ought to spare american property found on board an enemy's ship. If therefore this extraordinary position could be maintained, that an american ship without a rôle d'équipage becomes the ship of an enemy, still the cargo, being proved to be the property of a friend, ought, on the principle of modifying the treaty between the two nations by that with England, to have been restored to the owners.

The result of these regulations has been the most extensive and universal devastation of the American commerce. Not only vessels bound to and from the enemies of France, but vessels bound to and from her allies, and to and from her own ports have been seized and confiscated.

The inevitable consequence has been, that the direct commerce between the two nations is almost annihilated, and that the property of American citizens has been taken to a much larger amount than would have been possible in a state of actual war.

Yet the government of the United States, wishing, if it be possible, to avoid even defensive measures, has sought assiduously and unremittingly, though hitherto without success, for such peaceful and amicable explanations as might do away existing animosities, and

restore between the two Republics that harmony which it so truly desires.

America has accustomed herself to perceive in France only the ally and the friend. Consulting the feelings of her own bosom, she has believed that between republics an elevated and refined friendship could exist, and that free nations were capable of maintaining for each other a real and permanent affection. If this pleasing theory, erected with so much care and viewed with so much delight, has been impaired by experience, yet the hope continues to be cherished that this circumstance does not necessarily involve the opposite extreme. It is believed that there exists no sufficient cause for solid and permanent enmity between France and the United States, but that on the contrary the interests of both would be promoted by that friendly intercourse, which a reciprocal observance of the great and immutable principles of justice would certainly establish and can alone preserve. Under this impression America resists the opinion that the present state of things has grown out of a digested system to which France designs to adhere. She wishes and she endeavours to persuade herself that temporary causes, which too often produce effects a sound and just policy must reprobate, connected with a misconstruction of the conduct of her government, as well as of the motives on which it has acted, may have occasioned those very serious aggressions of which she complains. She recedes therefore, even under the pressure of these aggressions, slowly and with difficulty from the attachments she has formed. So intertwined with every ligament of her heart have been the chords of affection which bound her to France, that only repeated and continued acts of hostility can tear them asunder.

The government of the United States, therefore, still searches the means of terminating peacefully, and in a manner which ought to be mutually satisfactory, the calamities of the moment, and of averting the still greater calamities which may be reserved for the future. Not even the discouraging and unusual events which had

preceded the present effort to negotiate could deter that government from repeating its endeavours for the preservation of amity and peace. Three citizens of the United States have been deputed as Envoys Extraordinary and Ministers Plenipotentiary to the French Republic. Their instructions authorize and direct them to review the existing treaties between the two nations, and to remove by all proper means, the inequalities which have grown out of the stipulations of those treaties, in consequence of the refusal of England to adopt the principles they contain. They are also directed to give fair and complete explanations of the conduct of the government they represent ; to state fully and truly the heavy injuries which their fellow citizens have sustained ; and to ask from the equity of a great and magnanimous Republic that compensation for those injuries, which, we flatter ourselves, their justice will not refuse and their liberal policy will not hesitate to give.

Bringing with them the temper of their government and country, searching only for the means of effecting the objects of their mission, they have permitted no personal considerations to influence their conduct, but have waited under circumstances beyond measure embarrassing and unpleasant, with that respect which the American Government has so uniformly paid to that of France, for permission to lay before you, citizen minister, these important communications with which they have been charged.

Perceiving no probability of being allowed to enter, in the usual forms, on those discussions which might tend to restore harmony between the two Republics, they have deemed it most advisable, even under the circumstances of informality which attend the measure, to address to your government, through you, this candid review of the conduct, and this true representation of the sentiments and wishes of the government of the United States. They pray that it may be received in the temper with which it is written, and considered as an additional effort, growing out of a disposition common to the government and people of America, to cultivate and

restore, if it be possible, harmony between the two Republics. If, citizen minister, there remains a hope that these desirable objects can be effected by any means which the United States have authorized, the undersigned will still solicit and will still respectfully attend the developement of those means.

If on the contrary no such hope remains, they have only to pray that their return to their own country may be facilitated ; and they will leave France with the most deep-felt regret that neither the real and sincere friendship, which the Government of the United States has so uniformly and unequivocally displayed for this great republic, nor its continued efforts to demonstrate the purity of its conduct and intention, can protect its citizens, or preserve them from the calamities which they have sought by a just and upright conduct to avert.

The undersigned pray you, citizen Minister, to accept the assurances of their perfect respect and consideration.

(Signed) CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Paris, January 17th, 1798,
in the 22d year of American Independence.

(Incluse b. du No. 6.)

*Loi relative aux Navires chargés de Marchandises
Anglaises, du 29 Nivôse, An VI. (18 Janvier 1798.)*

(Extrait du Bulletin des Lois No. 178.)

Le Conseil des Anciens, adoptant les motifs de la déclaration d'urgence qui précède la résolution ci-après, approuve l'acte d'urgence.

Suit la teneur de la déclaration d'urgence et de la résolution du 22 Nivôse (11 Janv. 1798).

Le Conseil des Cinq Cents, après avoir entendu le rapport d'une commission spéciale sur le message du Directoire Exécutif, du 15 Nivôse, relatif aux marchandises anglaises ;

Considérant que l'intérêt de la république exige les mesures les plus promptes contre tous les navires qui en seraient chargés ;

Déclare qu'il y a urgence.

Le Conseil, après avoir déclaré l'urgence, prend la résolution suivante :

ART. I. L'état d'un navire, en ce qui concerne la qualité de neutre ou d'ennemi, est déterminé par sa cargaison. En conséquence tout bâtiment chargé en tout ou en partie de marchandises anglaises, est déclaré de bonne prise, quel que soit le propriétaire desdites marchandises.

ART. II. Tout bâtiment étranger qui, dans sa traversée, aura relâché en Angleterre, ne pourra entrer en France si non dans le cas d'une relâche forcée : il en sortira dès que les causes de sa relâche auront cessé.

ART. III. La présente résolution sera imprimée.

(Signé) BOULAY (de la Meurthe), Président.

GUILLEMARDET, }
ROEMERS, } Secrétaires.

Après une seconde lecture, le Conseil des Anciens approuve la résolution ci-dessus. Le 29 Nivôse, An VI, de la République Française.

(Signé) MARRAGON, Président.

ET. LAVEAUX, }
KAUFFMANN, }
MENUAU, } Secrétaires.
MERIC, }

Le Directoire Exécutif ordonne, que la loi ci-dessus soit imprimée, exécutée, et munie du sceau de la République.

Fait au Palais National du Directoire Exécutif, le 29 Nivôse, An VI de la République Française, une et indivisible. (18 Janvier, 1798.)

Pour copie véritable ;

(Signé) P. BARRAS, Président.

Par le Directoire Exécutif ;

Le Secrétaire-Général, LAGARDE.

Et scellé du sceau de la République.*

* Cette loi n'a été abolie que par l'arrêté des consuls du 29 Frimaire, An VIII. (20 Décembre, 1799.)

Message du Président des Etats Unis du 5 Juin, 1798, pour transmettre au Congrès la Suite de la Correspondance des Ministres Américains à Paris.

Message from the President to Congress.

Gentlemen of the Senate, and

Gentlemen of the House of Representatives,

I now transmit to both Houses, the communications from our Envoys at Paris, received since the last, which have been presented by me to Congress.

JOHN ADAMS.

United States,
June 5th, 1798.

No. 7.

Dépêche des Ministres Américains du 9 Mars, 1798, adressée à M. Pickering, Secrétaire d'Etat des Etats-Unis, pour lui annoncer, qu'ils ont préparé une Note à M. de Talleyrand à l'Effet de réclamer contre le Décret du 18 Janvier, et que, ne jugeant pas convenable de rester plus long-temps en France, ils avaient demandé une Entrevue à ce Ministre. M. de Talleyrand ayant fixé pour cette Conférence le 2 Mars, les Ministres Plénipotentiaires en rendent Compte dans la Pièce (A). Le Résultat de cette Entrevue est, qu'il paraît aux Ministres Américains que les Vues du Gouvernement Français à leur Egard n'ont pas éprouvé de Changement essentiel depuis les Communications qu'ils avaient eues, en Octobre dernier, avec les Agens secrets de ce Gouvernement.

Paris, March 9th, 1798.

Dear Sir,

Agreeably to what we represented to you in our No. 6. we prepared a letter to the Minister of Foreign Affairs, on the subject of the late law authorizing the capture of neutral vessels, on board of which any

productions of Great Britain or its possessions should be laden, shewing how incompatible such law was with the rights of neutral nations and the treaty between France and America, its direct tendency to destroy the remaining commerce of our country, and the particular hardships to which it would subject the agricultural as well as commercial interests of our countrymen, from the peculiar situation of the United States. We added, that under existing circumstances, we could no longer resist the conviction that the demands of France rendered it entirely impracticable to effect the objects of our mission ; and that not being permanent Ministers, but Envoys Extraordinary, with full power for particular purposes, we deemed it improper to remain longer in France, after the impossibility of effecting those purposes had been demonstrated. Before however we took this measure and explicitly demanded our passports, we deemed it expedient to desire Major Rutledge to call on Mr. Talleyrand, on the 19th ultimo, to know if he had any communication to make to us in consequence of our letter dated the 17th and delivered the 31st of January. To this Mr. Talleyrand replied, that he had no answer to make, as the Directory had not taken any order on the subject, and when they did, he would inform us of it. Still being anxious to hear explicitly from Mr. Talleyrand himself, before we sent our final letter, whether there were no means, within our powers, of accommodating our differences with France, on just and reasonable grounds, we wrote to him on the 27th of February, soliciting a personal interview on the subject of our mission ; he appointed the 2d of March following. You will find in the exhibit A, herewith enclosed, what passed on that occasion. On the 4th instant we requested another interview. We have detailed in the latter part of the same exhibit, for your information, the substance of that conversation. From these accounts you may observe that the views of France with regard

to us are not essentially changed, since our communications with its unofficial agents in October last.

We have the honor to be,

With great respect,

Your most obedient humble servants,

CHARLES COTESWORTH PINCKNEY,

J. MARSHALL,

E. GERRY.

Col. PICKERING, *Secretary of the United States.*

(A.) *Incluse du No. 7.*

Relation de ce qui s'est passé dans l'Entrevue des Ministres Américains avec M. de Talleyrand, le 2 Mars, 1798. Le Directoire se croyant offensé par les Discours adressés au Congrès par les Présidens Washington et Adams, M. de Talleyrand fait entendre que le Gouvernement Français, pour en venir avec l'Amérique à un Arrangement des Différends subsistant entre les deux Nations, attend quelque Offre de sa Part, qui prouve des Dispositions conciliantes. Cette Offre ayant pour objet un Emprunt à fournir à la France par l'Amérique, les Ministres des Etats-Unis déclarent, que cette Proposition excède leurs Pouvoirs. Mais M. de Talleyrand prétend que les Pouvoirs ne sauraient former d'obstacle à cette Affaire, puisqu'il fallait faire une Distinction entre le Silence des Instructions par Rapport à un Objet, et la Défense expresse de l'aborder; que, dans le premier Cas, l'Affaire était laissée à la Discretion des Ministres Plénipotentiaires. Cependant ceux-ci soutiennent, qu'un Emprunt fourni à la France brouillerait l'Amérique avec la Grande-Bretagne qui regarderait le Secours d'Argent comme un Acte d'Hostilité, lequel ferait sortir l'Amérique de l'Etat de Neutralité.

La Conversation est reprise dans la Soirée du 2, où les Ministres Américains déclarent de nouveau, qu'ils ne sauraient rien faire, pour atteindre le But de leur Mission, à moins qu'ils ne soyent reconnus comme Ministres Publics. M. de Talleyrand les invite à l'aller voir sou-vent comme particuliers.

Les Ministres demandent, et ont le 6 une nouvelle Entrevue avec M. de Talleyraad. Celui-ci met encore en avant la Proposition de l'Emprunt; les Ministres Plénipotentiaires répondent, que leurs Instructions sont positivement contraires à une telle Proposition. Ils trouvent également inadmissibles les autres Propositions faites à cet Egard, et dont l'une porte d'avancer à la France l'Argent dû par elle aux Citoyens d'Amérique pour des Captures; une autre de faire l'Emprunt payable après la Guerre; et une troisième, de le fournir en secret; ils soutiennent constamment que toutes ces Versions sont contraires à l'Etat de Neutralité de l'Amérique. Les Ministres Américains finissent par faire l'Offre d'envoyer deux d'entre eux en Amérique, pour prendre de nouvelles Instructions sur les Propositions de la France; Offre, à laquelle M. de Talleyrand ne fait point de Réponse.

March the 2d.

At three o'clock we waited on Mr. Talleyrand, and were almost immediately introduced to him. General Pinckney commenced the conversation by saying, that our government and ourselves were extremely anxious to remove the subsisting difference between the two Republics; that we had received many propositions through Mr. Y. to which we had found it impracticable to accede; and that we had now waited on him for the purpose of enquiring whether other means might not be devised which would effect so desirable an object. The minister replied, that without doubt, the Directory wished very sincerely on our arrival to see a solid friendship established between France and the United States, and had manifested this disposition by the readiness with which orders for our passports were given. That the Directory had been extremely wounded by the last speech of General Washington, made to Congress when about to quit the office of President of the United States; and by the first and last speech of Mr. Adams. That explanations of these speeches were expected and required of us. General Pinckney expressed

his surprise that the speech of General Washington was complained of, and said this was a new complaint. Mr. Talleyrand merely observed, that the Directory was wounded at it ; and proceeded. He said, that the original favourable disposition of the Directory had been a good deal altered by the coldness and distance which we had observed. That instead of seeing him often, and endeavouring to remove the obstacles to a mutual approach, we had not once waited on him. General Pinckney observed, that when we delivered him our letters of credence, he informed us, that the Directory in a few days would decide concerning us ; and that when the decision was made he would communicate it to us. That this had for some time suspended any procedure on our part. He answered that this related only to our public character, and not to private visits. General Pinckney said, that on an application made by his secretary for a passport for an American under his care, he was told that he must apply to the office of police, for that America had no minister in France, since the recall of Mr. Monroe. The minister said, that was very true ; and then proceeded to say, that the Directory felt itself wounded by the different speeches of Mr. Washington and Mr. Adams, which he had stated, and would require some proof, on the part of the United States, of a friendly disposition previous to a treaty with us. He then said that we ought to search for and propose some means which might furnish this proof ; that if we were disposed to furnish it, there could be no difficulty in finding it ; and he alluded very intelligibly to a loan. He said, he had several conferences with Mr. Gerry on this subject, who had always answered that we had no power. Mr. Gerry said that he had stated other objections ; that he had particularly urged that it would involve us in a war with Great Britain. He made no reply : and General Pinckney observed, that a loan had repeatedly been suggested to us, but that we had uniformly answered, that it exceeded our powers. Mr. Talleyrand replied, that persons at such a distance as we

were from our government, and possessed as we were of the public confidence, must often use their discretion, and exceed their powers for the public good. That there was a material difference between acting when instructions were silent, and doing what was particularly forbidden ; that if indeed a loan was positively forbidden, we might consider ourselves as incapable of making one ; but if, as he supposed was the case, (he looked the question) our instructions were only silent, that it must be referred to us to act in a case not provided for according to the best of our judgment for the public good : that in almost all the treaties made during the revolution, the negociators had exceeded their powers ; although the government appointing them was at no considerable distance. He particularized the treaty with Prussia, and several others. General Pinckney told him that our powers did not extend to a loan, and perhaps might forbid it. The Minister still urged the difference between an express prohibition and mere silence. He then proceeded to state that the principal objection on the part of our government to a loan must be, that it would draw us out of the neutral situation in which we wished to continue ; that there were various means of evading this ; first, the secrecy of France, which might be relied on : and secondly, means of disguising the loan might be devised, which would effectually prevent its being considered as an aid during the present war, that if we were truly and sincerely desirous of effecting the thing, we should experience no difficulty in finding the means. He again stated a proposition of this sort, on our part, as being absolutely necessary to prove that the government was not about entering into a treaty with persons of a temper hostile to it. Mr. Gerry not well hearing Mr. Talleyrand, who spoke low, asked him to explain himself with respect to the proposition which he had alluded to, supposing it to be a new one : and he answered that one of them was secrecy ; but that there were besides various ways which might easily be suggested to cover the loan, as an immediate one, by limiting the

time of advancing it to distant instalments. Mr. Gerry observed, that Dutrimond had suggested that a loan was proposed to be made payable after the war, and in supplies to St. Domingo. Mr. Talleyrand signified, that that might be one of the means used; and said, that if we were only sincere in our wish, it would be easy to bring about the end. General Marshall told Mr. Talleyrand, that if the Ministers of the United States had manifested any unwillingness to take all proper measures to reconcile the two Republics, or any indifference on the subject, they had very badly represented the feelings and wishes of their government; that the Government of the United States was most sincerely desirous of preserving the friendship of France, and had, in his opinion, unequivocally manifested that desire, by having deputed us under the extraordinary circumstances attending our mission, and by having so long patiently borne the immense loss of property which had been sustained; that we had endeavoured, according to the best of our judgment, to represent truly this disposition of our government; but that we understood that France would consider nothing as an evidence of friendship, but an act which would transcend and violate our powers, and at the same time operate the most serious injury to our country; that neutrality, in the present war, was of the last importance to the United States, and they had resolved faithfully to maintain it; that they had committed no act voluntarily, which was a breach of it; and could do nothing in secret, which, if known, would justly arrange them among the belligerent powers; that in the present state of things, if America was actually leagued with France in the war, she would only be required to furnish money; that we had neither ships of war or men to be employed in it, and could consequently, as a belligerent power, only be asked for money; that, therefore, to furnish money, was in fact to make war; which we could by no means consent to do; and which would absolutely transcend our powers; being an act altogether without the view and contem-

plation of our government, when our mission was decided on : that with respect to supplies to St. Domingo, no doubt could be entertained that our merchants would furnish them very abundantly, if France would permit the commerce ; and a loan really payable after the close of the war, might then be negociated. Mr. Talleyrand again marked the distinction between silence of instructions and an express prohibition ; and again insisted on the necessity of our proving, by some means which we must offer, our friendship for the republic. He said, he must exact from us, on the part of his government, some proposition of this sort ; that to prove our friendship, there must be some immediate aid, or something which might avail them ; that the principles of reciprocity would require it. General Pinckney and General Marshall understood him, by this expression, to allude to the loan formerly made by France to the United States. Mr. Gerry, at the time, thought he alluded to the treaty to be made ; and said, all treaties should be founded in reciprocity : and then asked him, whether a loan was the ultimatum of this government. Mr. Talleyrand did not give a direct answer to the question : he said, as he was understood, that the government insisted on some act which would demonstrate our friendly disposition towards, and our good wishes for the Republic ; this once done, he said, the adjustment of complaints would be easy ; that would be matter of enquiry ; and if France had done us wrong, it would be repaired. But that if this was refused, it would increase the distance and coldness between the two Republics. The conversation continued in this style until four o'clock, when we took our leave, and agreed to meet in the evening.

In the course of it, and in reply to some observations of Mr. Talleyrand, respecting the proofs of friendship required by France, General Pinckney observed, that our being here was a mark of the friendly disposition of our government, and that while we were here, the government had passed a decree for seizing neutral

vessels having on board any article coming out of England ; which in its operation would subject to capture all our property on the ocean. Mr. Talleyrand replied, that this was not particular to us, but was common to all the neutral powers. At another time, in answer to his demand of some mark of our friendship, General Marshall observed, that we considered the mutual interests of the two nations as requiring peace and friendship ; and we relied on finding sufficient motives in the interest of France, to preserve that friendship ; without forcing us to an act which transcended our powers, and would be so injurious to our country. As we were taking our leave, Mr. Talleyrand again noticed our not visiting him and said ; that he conceived our not having had an audience from the Directory ought not to have prevented it. General Marshall told him, that our seeing the Directory, or not, was an object of no sort of concern to us ; that we were perfectly indifferent with regard to it ; but that we conceived that until our public character was in some degree recognized, and we were treated as the ministers and representatives of our government, we could not take upon ourselves to act as ministers ; because by doing so, we might subject ourselves to some injurious circumstances to which we could not submit. He said that was very true ; but that we might see him as private individuals ; and discuss the objects of difference between us.

We requested of Mr. Talleyrand another interview, at such hour as might be convenient to him, on the sixth instant. He answered, that he would receive us at half past eleven ; at which hour we attended him.

Immediately after our arrival at his office, we were introduced to the minister ; and General Pinckney stated, that we had considered, with the most serious attention, the conversation we had had the honor of holding with him a few days past : that the propositions he had suggested, appeared to us to be substantially the same with those which had been made by Mr. X. by Mr. Y. and also to Mr. Gerry, with an intention that

they should be communicated to his colleagues ; that we considered it as a proposition, that the United States should furnish aid to France, to be used during the present war : that though it was unusual to disclose instructions, yet we would declare to him, that in addition to its being a measure amounting to a declaration of war against Great Britain, we were expressly forbidden by our instructions to take such a step.

The minister said, in the tone of a question, he supposed our instructions were, to do nothing which would amount to a departure from our neutrality.

General Pinckney said, that we were so instructed, and that they were still more particular. Mr. Talleyrand then proceeded to argue, that it would be no departure from neutrality, to stipulate a loan payable after the war : and spoke of it clearly as admitting of application to immediate use. He said a good deal of the secrecy with which the transaction might be clothed ; and observed further, that a loan payable after the war would be a proof of our faithful observance of the duties of neutrality ; since it would be considered as proving that we had rejected propositions for an immediate loan. General Marshall replied, that we thought differently ; that in our opinion, any act, on the part of the American government, on which one of the belligerent powers could raise money for immediate use, would be furnishing aid to that power, and would be taking part in the war. It would be, in fact, to take the only part which in the existing state of things, America could take. This was our deliberate opinion ; and in addition to it, we considered our instructions as conclusive on this point.

He observed, that we had claims on the French government, for property taken from american citizens. Some of those claims were probably just. He asked, if they were acknowledged by France, whether we could not give a credit as to the payment—say for two years ? We answered that we could. He then insisted that it was precisely the same thing ; that by such an act, we should consent to leave in the hands of France, funds

to which our citizens were entitled, and which might be used in the prosecution of the war. General Pinckney said there was a difference between the cases ; that such prizes were now actually in the power of the french, without our consent ; we could not prevent it or get them out ; but the granting or not granting a loan was in our own power. He repeated his observation ; and General Marshall said, that the property for which money was due to american citizens from the French government, was taken into the possession of that government, without any co-operation on the part of the United States. No act of any sort was performed by our government, which in any degree contributed to place those funds in the hands of France, nor was there any consent towards it ; but in the case proposed, the act would be the act of the government ; the government would itself place funds in the hands of France, and thereby furnish means which might be employed in the prosecution of the war. This was the distinction between the cases, and in a question of neutrality, it appeared to us to be all important.—The Minister then proceeded to state the case of our assuming the debt of our citizens, and of paying the money in that manner ; but General Pinckney and Mr. Gerry told him we were positively forbidden to assume the debt to our own citizens, even if we were to pay the money directly to them. He seemed surprized at this. General Pinckney observed, that contrary to usage, we had deemed it proper, in the existing state of things, to state candidly our powers to him, that he might know certainly that we could not secretly, or under any disguise whatever, make a loan which might be used during the war. Mr. Talleyrand said, he must resume his position, that there was a difference, which he must insist upon, between a loan payable immediately, and a loan payable in future ; and he still insisted there was no difference between a loan payable in future, and a credit for the money which might be due to our citizens. Mr. Gerry observed, that his colleagues had justly stated the distinction between the debt which will be due to the citizens of the

United States from France, in case of her recognizing the claims which we shall make in their behalf, and a debt which might arise from a loan by the Government of the United States to that of France, during the war. The one is the result of an arrest of their property without their consent ; the other would be a voluntary act of the Government of the United States, and a breach of their neutrality. There is an additional objection to the latter : If the United States should make such a loan, it would give too much reason to suppose that their government had consented, in a collusive manner, to the capture of the vessels of their citizens, and had thus been furnishing France with supplies to carry on the war. Our instructions are express, not to stipulate for any aids to France, either directly or indirectly, during the war. With respect to a secret stipulation, a loan cannot be made without an act of the legislature : but if the executive were adequate to it, we have had an instance of an injunction of secrecy on members of the Senate, on an important subject, which one of the members thought himself warranted in publishing in the newspapers ; and of frequent instances of secrets which have otherwise escaped : secrecy, in this instance, might therefore be considered, if the measure was in itself admissible, as being impracticable. General Marshall observed, that we had considered the subject with great solicitude, and were decidedly of opinion, that we could not, under any form, make a loan which could be used during the war ; that we could not tell what our government would do, if on the spot ; but were perfectly clear, that without additional orders, we could not do what France requested. Mr. Gerry observed, that the government and nation of the United States, as well as ourselves, were earnestly solicitous to restore friendship between the two republics ; that as General Marshall had stated, we could not say what our government would do, if on the spot ; but if this proposition met the wishes of the government of France, General Marshall and himself had agreed immediately to embark for the United States, and lay before our

government the existing state of things here, as it respected our nation, to enable them to determine whether any, and what other measures on their part were necessary. Mr. Talleyrand made no observation on this proposition : but enquired whether we expected soon to receive orders. Mr. Gerry mentioned an answer he had received to a letter sent by him in November : and General Marshall stated, that our first dispatches were sent on board two vessels at Amsterdam, on the 28th of November ; from which Mr. Talleyrand could form as just an idea as we could, when an answer might be expected : but he did not think it probable one would arrive before a month to come. General Marshall told him, we knew that our government had not received our dispatches on the 8th of January ; and we could not tell when they might be received. He asked whether our intelligence came through England ? General Marshall answered that it did not ; and General Pinckney said, that american papers as late as the 8th of January mentioned the fact.

There was some conversation about the time when these instructions might be expected ; and General Marshall suggested a doubt whether our government might give any instructions. He asked, with some surprise, whether we had not written for instructions ? and we answered, that we had not : and Mr. Gerry said that we had stated facts to our government, and conceived that nothing more was necessary. General Pinckney observed, that the government knowing the facts, would do what was proper ; and that our applying or not applying for instructions would not alter their conduct. Mr. Talleyrand then enquired whether we had not sent any one to the United States. General Pinckney said no : and Mr. Gerry added, that soon after our arrival we had made propositions to send one of our number, which were not accepted. General Marshall further added, that those who had communicated with us, had told us we should be ordered out of France immediately ; and we had supposed that we should be ordered out before our letters could reach the govern-

ment. Mr. Gerry then observed that the government of France must judge for itself; but that it appeared to him, that a treaty on liberal principles, such as those on which the treaty of commerce between the two nations was first established, would be infinitely more advantageous to France than the trifling advantages she could derive from a loan. Such a treaty would produce a friendship and attachment on the part of the United States to France, which would be solid and permanent, and produce benefits far superior to those of a loan, if we had powers to make it. To this observation Mr. Talleyrand made no reply. We parted without any sentiment delivered by the minister on the subject of our going home to consult our government.

As we were taking our leave of Mr. Talleyrand, we told him that two of us would return immediately to receive instructions of our government, if that would be agreeable to the Directory: if it was not, we would wait some time in the expectation of receiving instructions.

Message du Président Adams au Congrès, en Date du 18 Juin, 1798, pour lui transmettre la Dépêche No. 8 des Ministres Plénipotentiaires à Paris.

Message from the President to Congress.

Gentlemen of the Senate, and
Gentlemen of the House of Representatives,

I now transmit to Congress the Dispatch, Number 8, from our Envoys Extraordinary to the French Republic, which was received at the Secretary of State's office, on Thursday the fourteenth day of this month.

JOHN ADAMS.

United States,
June 18th, 1798.

No. 8.

Dépêche des Envoyés Extraordinaires d'Amérique, à Paris, adressée à M. Pickering, Secrétaire d'Etat des Etats-Unis, en Date du 3 Avril, 1798, pour lui faire parvenir une Lettre de M. de Talleyrand du 18 Mars, écrite aux Ministres Américains en Réponse à leur Mémoire du 17 Janvier, avec la Réplique des Ministres à la Lettre de M. de Talleyrand.

Paris, April 3d, 1798.

Dear Sir,

We herewith transmit you the copy of a letter written to us by the Minister of Foreign Affairs, dated the 28th Ventôse, (18th March) and purporting to be an answer to our memorial of the 17th of January.

We also send you in this inclosure a copy of our reply, which has been presented this morning. As soon as we certainly know what steps the French Government mean to pursue in consequence of this reply, you shall be informed of them.

We remain, with great respect and esteem, your most obedient servants,

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Col. PICKERING, Secretary of the United States.

(Incluses du No. 8.)

a.

Lettre de M. de Talleyrand, adressée aux Ministres Plénipotentiaires des Etats-Unis, en Date du 18 Mars, 1798—Suivant ce Mémoire, la France a eu l'Antériorité des Plaintes à l'Egard de l'Amérique. Récapitulation des principaux Grieffs: Prétention de connaître de la Validité des Prises; Détention des Propriétés Françaises; les Croiseurs Anglais favorisés; Arrestation d'une Corvette Nationale de France; Décisions souvent partiales des Tribunaux Américains; Renvoi à ces Tribunaux d'Affaires qui auraient dû être des Objets de Négociation; enfin Ratification du Traité

de Londres en Août 1795. — *Contraste de la Conduite de la France envers les Etats-Unis.* Le Ministre Français appuie surtout sur les Procédés de l'Amérique vis-à-vis de la France, à l'Occasion du Traité, signé à Londres par M. Jay, et sur les Clauses mêmes de ce Traité, comme contraires à l'Alliance et à l'Amitié entre la France et les Etats-Unis. De là les Arrêtés du Directoire, et les autres Actes, dont se plaint l'Amérique. Le Ministre passe ensuite à d'autres Griefs de la France envers les Etats-Unis; tels que la Notification, faite en 1796 au Croiseurs Français, que désormais ils n'auraient plus la Permission de vendre leurs Prises dans les Ports des Etats-Unis; la Licence des Journaux Publics; la Publication de Pamphlets, remplis de Calomnies et d'Invectives contre le Gouvernement Français et le Ton des Actes publics mêmes du Gouvernement Fédéral, où l'on reconnaissait une Inimitié sourde qui n'attendait que le Moment favorable pour éclater. Les Instructions des Ministres Américains, suivant M. de Talleyrand, étaient conçues de Manière, qu'on ne pouvait arriver à des Résultats pacifiques; elles étaient dictées par le Désir de soutenir à tout prix le Traité de Londres, qui formait le principal Grief de la France. Il était manifeste qu'on voulait consommer une Union avec l'Angleterre, pour laquelle on professait un Dévouement et une Partialité, qui depuis long-temps étaient le Principe de la Conduite du Gouvernement Fédéral. C'est en suite de ces Sentimens qu'il avait envoyé en France des Personnes, dont les Relations et les Opinions étaient trop connues pour en espérer des Dispositions sincèrement conciliantes; tandis qu'on s'était empressé d'envoyer à Londres des Ministres bien connus par des Sentimens conformes à l'Objet de leur Mission. Le Peuple Américain ne pourrait qu'avec Regret envisager un pareil Etat de Choses et en prévoir les Conséquences. Cependant M. de Talleyrand finit par déclarer que, malgré la Sorte de Prévention qu'on avait pu concevoir sur les Ministres Américains, le Directoire était disposé à traiter avec celui des trois (M. Gerry,) dont les Opinions, présumées plus impartiales promettaient, dans le Cours des Explications, plus de cette Confiance réciproque qui était indispensable,

et le Ministre se flatte, que cette Ouverture ne souffrira, de la Part des Envoyés Extraordinaires, aucune Difficulté sérieuse, puisque, par la Teneur de leurs Pouvoirs, ils étaient autorisés à négocier conjointement ou séparément.

Le Ministre des Relations Extérieures de la République Française, à Messieurs Charles Cotesworth Pinckney, J. Marshall et E. Gerry,

Le soussigné Ministre des Relations Extérieures de la République Française, a mis sous les yeux du Directoire Exécutif, le Mémoire que les Commissaires et Envoyés Extraordinaires des Etats-Unis de l'Amérique lui ont fait parvenir sous la date du 28 Nivôse dernier, et c'est en exécution des intentions du Directoire, qui désire convaincre les Etats Unis des véritables dispositions qui l'animent à leur égard, que le soussigné communique aux Commissaires et Envoyés Extraordinaires les observations suivantes.

La première chose qui a dû frapper dans le Mémoire des Commissaires et Envoyés Extraordinaires, c'est la méthode qu'ils ont jugé à-propos de suivre dans l'exposition et dans la discussion des points qui sont en contestation entre les deux Etats. Le Directoire Exécutif, animé des dispositions les plus conciliantes, et pénétré des intérêts qui doivent rapprocher les deux nations, autant qu'empressé de concourir au vœu bien connu des deux peuples pour le maintien d'une intimité parfaite, avait lieu d'attendre que les Envoyés apporteraient, au nom de leur Gouvernement, des dispositions entièrement analogues et un esprit préparé d'avance par les mêmes vues et par les mêmes désirs. Quel a dû être, d'après cela, l'étonnement du Directoire Exécutif, quand le soussigné lui a rendu compte d'un Mémoire, dans lequel les Commissaires et Envoyés Extraordinaires, en renversant l'ordre connu des faits, se sont attachés à passer, en quelque sorte, sous silence, les justes motifs de plainte du Gouvernement Français, et à déguiser la véritable cause de la mésintelligence qui se prolonge entre les deux Républiques !

En sorte qu'il paraîtrait, d'après cet exposé, aussi partial, qu'inidèle, que la République Française n'a aucun grief réel à faire valoir, aucune réparation légitime à exiger ; tandis que les Etats-Unis seraient les seuls admissibles à se plaindre, les seuls autorisés à réclamer des satisfactions.

Les intentions, qui ont fait préférer cette marche à toute autre, n'ont point échappé au Directoire Exécutif ; et, c'est autant par un juste sentiment de la dignité de la République dont les intérêts lui sont confiés, que pour se prémunir éventuellement contre les vues qu'on pourrait se proposer par une semblable conduite, qu'il a chargé le soussigné de faire disparaître ces vaines apparences qui ne peuvent en effet subsister à l'instant que les faits auront été rétablis, et que les véritables intentions du Directoire auront été solennellement constatées, en opposition avec celles qu'on ne pourrait lui attribuer que gratuitement et en se prévalant de son silence..

Une vérité incontestable, et qui se trouve entièrement écartée, dans le Mémoire des Commissaires et Envoyés Extraordinaires, c'est que l'antériorité des griefs et des plaintes appartient à la République Française ; que ces plaintes et ces griefs étaient aussi réels que nombreux, bien avant que les Etats-Unis eussent la moindre réclamation fondée à élever et par conséquent avant que tous les faits sur lesquels les Envoyés appuient avec tant de détails, eussent existé.

Une autre vérité non moins incontestable, c'est que tous les griefs que présentent les Commissaires et Envoyés Extraordinaires, sauf des exceptions que le soussigné était prêt à discuter, sont une conséquence nécessaire des mesures que la conduite antérieure des Etats-Unis avait justifiées de la part de la République Française, et que ses traités avec lesdits Etats-Unis autorisaient dans certains cas qu'il dépendait du Gouvernement général de l'Union de faire ou de ne pas faire exister.

Il serait hors de propos d'entrer dans l'énumération des plaintes que le Gouvernement Français avait lieu d'élever contre le Gouvernement Fédéral, depuis le commencement de la guerre suscitée à la République Fran-

çaise par une puissance jalouse de sa prospérité et de sa régénération. Ces détails sont consignés dans les offices nombreux passés à Philadelphie par les Ministres de la République, et ils ont été récapitulés par le prédécesseur du soussigné, dans une note, adressée sous la date du 19^{me} Ventôse, an 4^{me}, au Ministre Plénipotentiaire des États-Unis à Paris, et exposés très en détail dans l'office passé à Philadelphie par le Citoyen Adet, le 25 Brumaire, de l'an 5^{me}. On se plaignait dans la note ci-dessus de l'inexécution des traités conclus en 1778, dans les seules clauses où la France eut stipulé quelques avantages, en retour des efforts qu'elle s'était engagée à faire pour l'utilité commune ; et l'on y réclamait contre des insultes faites à la dignité de la République Française.

Dès le commencement de la guerre en effet les tribunaux Américains ont prétendu au droit de prendre connaissance de la validité des prises, menées dans les ports des États-Unis par des croiseurs français. Il est résulté de cette prétention contraire à la lettre du traité de commerce de 1778, que les propriétés des citoyens de la République ont été injustement détenues, et que l'on a totalement découragé la course française, dans les mers de l'Amérique, contre un ennemi qui en faisait revivre les lois les plus barbares, pour détruire et insulter le commerce américain sous les yeux mêmes du Gouvernement Fédéral.

On ne se bornait pas à favoriser les ennemis de la République Française dans un point aussi essentiel, point sur lequel il pouvait à la vérité survenir quelques abus, mais que le Gouvernement Français se montrait disposé à prévenir ; on allait encore jusqu'à permettre aux vaisseaux ennemis contre le sens textuel du traité ci-dessus, de relâcher dans les ports des États-Unis après avoir capturé des propriétés ou *des bâtimens appartenans à des citoyens français*. Bientôt après on arrêta par ordre du gouvernement une corvette nationale mouillée dans le port de Philadelphie,* et cette arrestation s'étendit ensuite jusqu'au capitaine comman-

* *Arrestation du Cassius, Août 1795.*

dant. Les tribunaux américains se saisirent de même de la personne de l'Ex-Gouverneur de la Gaudeloupe, pour faits de son administration, et il a fallu que le Directoire Exécutif menaçât d'user de représailles pour faire prendre à cette affaire le cours que le droit des gens lui assignait.

Pendant tout l'espace de temps qu'on vient de parcourir, le Gouvernement Français fit de vains efforts pour déterminer le Gouvernement des Etats-Unis à procurer aux agens de la République les moyens légaux de faire exécuter les clauses de la convention consulaire de 1788, qui accordaient à notre navigation et à notre commerce des privilèges dont le principe était consacré par les traités de 1778 ; et jamais on ne put obtenir à cet égard que des renvois infructueux aux tribunaux. En général, toutes les matières qui, avec des intentions sincèrement conciliantes auraient pu se terminer par voie de négociation étaient habituellement déferées aux autorités judiciaires : et celles-ci, soit qu'elles fussent, ou non, soumises à une influence secrète, privaient, en dernière analyse, la République des droits fondés sur les traités, ou bien en modifiaient l'exercice selon qu'il convenait au système du gouvernement.

Tel était l'état véritable des choses au mois d'Août 1795, époque où la ratification d'un traité d'amitié, de navigation et de commerce, signé à Londres dans le mois de Novembre précédent, entre les Etats-Unis et la Grande-Bretagne, vint mettre le comble aux griefs de la République.

Quelle avait été jusques-là la conduite du gouvernement Français envers les Etats-Unis ? Le soussigné, pour en faire voir le contraste avec celle des dits Etats, se contentera de rappeler des faits qui ne peuvent toutefois avoir été oubliés.

Occupée des soins les plus pressans en Europe, la République n'avait porté ses regards sur les Etats-Unis que pour leur donner constamment des preuves nouvelles de l'amitié et de l'intérêt les plus sincères, et elle laissait à ses agens à discuter à l'amiable avec le gouvernement fédéral les contestations dont on vient de tracer une esquisse, et qui, si elles eussent été traitées de part et d'autre

avec un véritable esprit de conciliation, n'auraient pu altérer la bonne intelligence au point où elle l'est en ce moment. La République était à peine constituée qu'on envoya un Ministre à Philadelphie, dont la première démarche fut de déclarer aux Etats-Unis, qu'on ne les presserait point d'exécuter les clauses défensives du traité d'alliance, quoique les circonstances représentassent, de la manière la moins équivoque, le *casus foederis*. Loin d'apprécier cette conduite, le Gouvernement Américain la reçut comme la reconnaissance d'un droit, et c'est dans cet esprit encore que les Commissaires et Envoyés Extraordinaires ont abordé cette question au commencement de leur mémoire. Le Ministre de la République à Philadelphie, ayant donné de l'inquiétude au Gouvernement Américain, fut rappelé avec empressement et même avec des circonstances extrêmement rigoureuses. Son successeur porta aux Etats-Unis toutes les réparations désirables ainsi que les déclarations les plus amicales et les plus sincères. Rien n'égale l'esprit de conciliation, ou plutôt de condescendance, dans lequel ses instructions étaient rédigées relativement à tous les points qui avaient causé quelques inquiétudes au Gouvernement Fédéral. Le Cit. Adet renforça encore, au nom de la Convention Nationale, ces expressions de bienveillance ; et cette assemblée elle-même accueillit, avec l'effusion d'une confiance et d'une sécurité sans bornes le nouveau Ministre que le Président des Etats-Unis envoya auprès d'elle, avec l'intention apparente de correspondre sincèrement aux dispositions que la République n'avait cessé de professer.

Ce qui doit paraître incroyable, c'est que la République et son alliance étaient sacrifiées au moment où elle redoublait ainsi d'égards pour son alliée, et que les démonstrations correspondantes du Gouvernement Fédéral n'avaient pour but que de la maintenir, ainsi que son Gouvernement, dans une fausse sécurité. Et cependant il est connu aujourd'hui que c'est à cette même époque que M. Jay, qui avait été envoyé à Londres, seulement disait-on alors, pour négocier des arrangemens relatifs

aux déprédations exercées sur le commerce américain, par les croiseurs de la Grande Bretagne, signait un traité d'amitié, de navigation et de commerce, dont à Paris et à Philadelphie on a tenu la négociation et la signature dans le plus grand secret. Ce traité ne fut avoué à notre Ministre Plénipotentiaire, qu'à la dernière extrémité, et il ne lui fut communiqué que pour la forme, et après qu'il eut reçu la ratification du Sénat. Lorsque les agens de la République se sont plaints de cette conduite mystérieuse, on a répondu en invoquant l'indépendance des Etats-Unis, solennellement consacrée dans les traités de 1778—manière étrange de combattre un grief dont la dissimulation à laquelle on a recours démontre la réalité,—subterfuge insidieux, qui substitue au vrai point de la question, un principe général, que la République ne pouvait pas être soupçonnée de contester, et qui détruit à l'aide d'un sophisme, cette confiance intime, qui doit exister entre deux alliées, et qui surtout devait exister entre la République Française et les Etats-Unis.

S'il est difficile de trouver dans cette conduite celle qu'on doit attendre d'un ami, que doit-on penser du traité même, et de ses clauses ? Ce traité est aujourd'hui connu de toute l'Europe ; et la faible majorité à laquelle il a passé dans les deux chambres, ainsi que la multitude des vœux imposans qui se sont prononcés dans la nation contre un tel acte, déposent honorablement en faveur de l'opinion qu'en a portée le Gouvernement Français. Le soussigné ne répétera point à l'égard de ce traité, ce que son prédécesseur en a dit dans sa note du 19 Ventôse précitée, et dans celle du 19 Messidor suivant, et ce que le Ministre Plénipotentiaire de la République à Philadelphie a exposé très au long dans son office du 25 Brumaire. Il se contentera d'observer sommairement, que dans ce traité tout ayant été prévu, pour faire tourner la neutralité des Etats-Unis au désavantage de la République Française et à l'avantage de l'Angleterre ; que le Gouvernement Fédéral ayant fait, dans cet acte, à la Grande Bretagne, les concessions les plus inouïes, les plus incompatibles avec les intérêts des Etats-

Unis, les plus dérogatoires à l'alliance qui existait, entre lesdits Etats et la République Française, celle-ci a été parfaitement libre de se prévaloir, pour parer aux inconvéniens du traité de Londres, des moyens conservatoires que lui fournissaient le droit naturel, le droit des gens, et les traités antérieurs.

Telles sont les raisons qui ont déterminé les arrêtés du Directoire dont se plaignent les Etats-Unis, ainsi que la conduite de ses agens aux Antilles. Toutes ces mesures ont pour principe l'article 2 du traité de 1778, qui veut qu'en matière de navigation et de commerce la France soit toujours à l'égard des Etats-Unis, sur le pied de la nation la plus favorisée. On ne peut s'en prendre au Directoire Exécutif, si de l'exécution de cette clause éventuelle, il est résulté quelques inconvéniens pour le pavillon Américain. Quant aux actes abusifs qui pouvaient sortir de ce principe, le soussigné répète encore qu'il était prêt à les discuter de la manière la plus amicale.

De cet exposé fidèle des faits, qui ont progressivement amené entre les deux Etats la mésintelligence actuelle, il résulte, comme l'a dit le soussigné en commençant cette réponse, que l'antériorité des griefs appartient à la République Française, et que celles de ses mesures qui ont pu motiver les plaintes des Etats-Unis, sont, à quelques exceptions près, la conséquence naturelle d'un état de choses qu'il a dépendu d'eux, de faire ou de ne pas faire exister.

Le soussigné, en terminant au traité de Londres, l'exposition des griefs de la République, ne remplirait qu'imparfaitement sa tâche, et il est de son devoir de porter plus loin ses regards. Dès qu'une fois le traité, dont il s'agit, eut été mis à exécution, le Gouvernement des Etats-Unis sembla se croire dispensé de garder aucune mesure envers la République, malgré l'assurance réitérée qu'on avait donnée à ses ministres, que le traité ne changerait rien à l'état préexistant de la neutralité des Etats-Unis, on notifia dans le courant de l'année 1796, aux croiseurs français, qu'ils ne pouvaient plus, comme jusqu'alors cela s'était pratiqué, être admis à vendre leurs prises dans les ports des Etats-Unis. Cette décision fut

rendue par la cour fédérale de justice, et motivée sur le traité conclu entre les Etats-Unis et la Grande Bretagne.

Les journaux, connus pour être sous le contrôle indirect du cabinet, ont depuis le traité redoublé d'invectives, et de calomnies, contre la République, et contre ses principes, ses Magistrats et ses Envoyés ; des pamphlets, ouvertement soudoyés par le Ministre de la Grande Bretagne, ont reproduit sous toutes les formes ces insultes et ces calomnies ; sans que jamais un état de choses aussi scandaleux, ait attiré l'attention du Gouvernement, qui pouvait le réprimer. Au contraire le Gouvernement lui-même s'est attaché dans ses actes publics à encourager ce scandale. Le Directoire Exécutif s'est vu dénoncé dans un discours prononcé par le Président, dans le cours du mois de Mai dernier (V. S.), comme cherchant à propager l'anarchie, et la division dans les Etats-Unis. Les nouveaux alliés que la République s'est faits, et qui sont les mêmes qui contribuèrent à l'indépendance des Américains, ont été également insultés, dans des correspondances officielles, qui ont été rendues publiques, ou dans les journaux. Enfin on ne peut s'empêcher de reconnaître, dans le ton des discours, et dans celui des publications qu'on vient d'indiquer, une inimitié sourde, qui n'attend que le moment pour éclater.

Les faits ainsi établis, il est fâcheux d'avoir à penser, que les instructions d'après lesquelles ils ont agi, n'ont point été rédigées, dans l'intention sincère, d'arriver à des résultats pacifiques ; puisque loin de partir dans leur mémoire, de quelques principes avoués, et de quelques faits reconnus, les commissaires ont interverti et confondu les uns avec les autres, de manière à pouvoir imputer à la République tous les malheurs d'une rupture qu'on semble vouloir amener, par une marche semblable. Il est évident, que le desir, bien prononcé, de soutenir à tout prix le traité de Londres, qui est le principal grief de la République, d'adhérer à l'esprit dans lequel ce traité a été conçu et exécuté, et de n'accorder à la République aucun des moyens de réparation, qu'elle a proposés par l'organe du soussigné, a dicté ces

instructions. Il est également évident qu'on n'hésite pas à sacrifier à ces sentimens étranges, ceux que devraient inspirer les traités de 1778, et le souvenir des circonstances au milieu desquelles ils ont été conclus.

Les conséquences éloignées d'une pareille conduite n'ont échappé à l'attention du Directoire. On desire en n'omettant rien pour prolonger la mésintelligence, et l'augmenter encore, en rejeter sur la République tout l'odieux, aux yeux de l'Amérique et de l'Europe. On cherche à justifier, par des apparences trompeuses, les préventions dont on entoure à plaisir le nom de la République, et le système d'exaspération et d'éloignement, qu'on suit à son égard avec la plus étrange obstination : on veut enfin saisir la première occasion favorable, pour consommer une union intime avec une puissance envers laquelle on professe un dévouement et une partialité, qui sont depuis long-temps le principe de la conduite du Gouvernement Fédéral.

Les intentions, que le soussigné attribue ici au Gouvernement des Etats-Unis, sont si peu déguisées, qu'on semble n'avoir rien négligé à Philadelphie, pour les manifester à tous les yeux. C'est vraisemblablement dans cette vue que l'on a jugé à-propos d'envoyer vers la République Française des personnes, dont les opinions et les relations sont trop connues pour en espérer des dispositions sincèrement conciliantes. Il est pénible pour le soussigné d'être obligé de relever le contraste de cette conduite avec celle qu'on a tenue envers le Cabinet de St. James, dans des circonstances analogues. On s'est empressé alors d'envoyer à Londres, des Ministres bien connus par des sentimens conformes à l'objet de leur mission.

La République aurait dû compter, ce semble, sur une déférence pareille ; et si l'on n'a point observé à son égard les mêmes convenances, il est beaucoup trop vraisemblable, qu'il faut l'attribuer aux vues indiquées plus haut par le soussigné.

Il est impossible de prévoir où peuvent conduire de telles dispositions. Le soussigné n'hésite point à croire

que la Nation Américaine, comme la Nation Française, voit avec regret cet état de choses, et n'en envisage les conséquences qu'avec douleur. Il estime que le peuple américain ne se méprendra, ni sur les préventions qu'on a voulu lui inspirer contre un peuple allié, ni sur les engagements qu'on semble vouloir lui faire contracter au détriment d'une alliance, qui a si puissamment contribué à le mettre au rang des nations et à l'y maintenir ; et qu'il verra dans ces combinaisons nouvelles, les seuls dangers que peuvent courir sa prospérité et sa considération.

Pénétré de la justesse de ces réflexions, et de leurs conséquences, le Directoire Exécutif a autorisé le sous-signé à s'exprimer avec toute la franchise qui convient à la Nation Française. Il était indispensable qu'au nom du Directoire il dissipât ces prestiges, dont on n'a depuis cinq ans cessé d'entourer à Philadelphie les plaintes des Ministres de la République, pour les atténuer, les calomnier, ou les travestir : il était instant enfin qu'en faisant connaître ses sentimens d'une manière non équivoque, il éclaircit tous les doutes et toutes les fausses interprétations dont ils auraient pu être l'objet.

C'est donc uniquement dans la vue d'applanir la voie des discussions, que le soussigné est entré dans les développemens qui précèdent. C'est dans la même vue qu'il déclare aux Commissaires et Envoyés Extraordinaires, que malgré la sorte de prévention qu'on a pu concevoir sur eux, le Directoire Exécutif est disposé à traiter avec celui des trois dont les opinions, présumées plus impartiales, promettent dans le cours des explications, plus de cette confiance réciproque qui est indispensable.

Le soussigné se flatte que cette ouverture ne souffrira de la part des Commissaires et Envoyés Extraordinaires aucune difficulté sérieuse. Il est d'autant plus naturel de l'espérer, que par la teneur de leurs pouvoirs lesdits Commissaires et Envoyés Extraordinaires sont autorisés à négocier conjointement ou *séparément*. Ensorte que le desir seul de prévenir tout accommodement pourrait

élever quelque objection contre cette mesure, qu'on ne fait au reste qu'indiquer aux Commissaires eux-mêmes, pour que rien ne porte ici un caractère de défaveur, et qui évidemment n'a d'autre objet que d'assurer à la négociation une heureuse issue en écartant d'abord tout ce qui pourrait de part et d'autre réveiller dans le cours de cette négociation des sentimens capables de la compromettre.

Le soussigné espère que les Commissaires et Envoyés Extraordinaires le mettront bientôt en état de rendre compte au Directoire Exécutif de leur détermination. Quelle que puisse être cette détermination, le soussigné se flatte que les explications, dans lesquelles il est entré, auront mis la question dans son vrai jour, et pourront éventuellement servir à dissiper aux yeux de tous les hommes impartiaux, l'impression défavorable dont on chercherait à atteindre les intentions de la République Française, et son Gouvernement. Il termine par renouveler aux Commissaires et Envoyés Extraordinaires l'assurance de sa considération.

(Signé)

CH. MAU. TALLEYRAND.

Paris, 28 Ventôse, an 6.

b.

Réplique des Envoyés Extraordinaires d'Amérique à la précédente Note de M. de Talleyrand, en Date du 3 Avril, 1798. En s'en rapportant à l'Esprit de Conciliation, dans lequel avait été conçu le Mémoire du 17 Janvier, les Ministres Américains déclarent, que les Etats-Unis sont toujours très-disposés à donner à la France toute la Satisfaction que la Justice et l'Amitié pourront exiger; que c'est dans cette Vue que depuis six Mois ils n'avaient cessé de solliciter d'être admis à entrer en Négociation avec le Gouvernement Français; ils n'osent pas prononcer, à qui appartient l'Antériorité des Plaintes, à la France ou à l'Amérique, mais ils répètent, que la dernière ne demande pas mieux que de réparer

tous les Torts que, sans le vouloir, elle pourrait avoir faits à la France. Les Grièfs de la France envers les Etats-Unis pouvant être classés sous trois Chefs d'Accusation distincts, savoir, 1. l'Inexécution des Traités avec la France ; 2. le Traité d'Amitié, de Commerce et de Navigation de Londres ; et 3. la Conduite du Gouvernement Fédéral depuis la Conclusion de ce Traité ; les Ministres Américains se flattent que, s'ils ne sont pas capables de convaincre M. de Talleyrand que, sous aucun de ces trois Rapports, leur Gouvernement ne peut être inculpé avec Justice. La bonne Foi et les Intentions loyales, avec lesquelles il avait toujours agi, seront pourtant démontrées complètement ; et en offrant d'indemniser la France de tous les Torts involontaires qu'elle pourrait avoir éprouvés de la Part de l'Amérique, les Envoyés espèrent que la Base des Négociations qu'ils vont proposer sera acceptée par le Gouvernement Français. Ils entrent ensuite dans la Discussion des Plaintes de la France, comprises dans le premier Chef d'Accusation ; 1.) L'INEXÉCUTION DES TRAITÉS. Ces Plaintes portent : a. Que les Tribunaux Américains se sont arrogé le Droit de connaître de la Validité des Prises Françaises qui avaient été conduites dans les Ports des Etats-Unis ; b. Qu'en Contrevenant au Texte du Traité, le Gouvernement Fédéral avait permis aux Vaisseaux ennemis d'entrer dans les Ports d'Amérique, après avoir fait des Prises sur les Citoyens de France ; c. Qu'il a fait déténir à Philadelphie une Corvette nationale de France, et a même ordonné l'Arrestation de son Capitaine ; d. Qu'il a refusé d'exécuter la Convention Consulaire. Les Ministres Américains tâchent de justifier leur Gouvernement en se servant en grande Partie d'Argumens, qui sont déjà connus par les Pièces précédentes de cette Collection. Ils démontrent (par rapport à la PLAINTÉ a) qu'il n'y a pas d'Exemple que les Etats-Unis eussent exercé ce Droit, et que le Principe, suivant lequel ils avaient agi à cet Egard, a été reconnu par la France elle-même. PLAINTÉ b. Aucun Fait, pour la prouver, n'a été articulé par la France ; tout dépend de la différente Manière d'interpréter l'Article 17 du Traité du

6 Février 1778. **PLAINTÉ C. L'HISTORIQUE DU CAS même renferme, suivant les Ministres, la Justification de leur Gouvernement à cet Egard. PLAINTÉ D. Les Ministres Américains en appellent à l'Interprétation stricte et véritable de la Convention Consulaire, du 14 November 1788.**—2.) **TRAITÉ D'AMITIÉ ET DE COMMERCE DE LONDRES.** Après avoir justifié leur Gouvernement de l'Accusation d'avoir négocié ce Traité de Commerce *secretement*, et avec *Intention* d'en cacher l'Objet à la France, les Ministres Américains soutiennent, que la faible Majorité, avec laquelle le Congrès approuva ce Traité, ne saurait servir de Règle pour le juger. M. de Talleyrand, suivant les Ministres Américains, n'ayant pas proféré d'Objections nouvelles contre ce Traité, mais s'étant contenté de s'en rapporter à la Critique qui en avait été faite par son Prédecesseur et par M. Adet, ils pensent qu'il a été prouvé, en Réponse à cette Critique, que les Stipulations, dont on se plaint, ne blessent aucunement les Intérêts de la France, n'affectent point les Engagemens antérieurs des Etats-Unis, et ne changent pas leur Situation relativement aux Puissances belligérantes. Les Argumens qui, à différentes Epoques, ont été mis en avant à ce Sujet par le Gouvernement Fédéral, étant restés sans Réponse, les Ministres se dispensent d'y revenir encore. Mais ils déclarent que leur Gouvernement a de tout temps été prêt à mettre la France sur le même Pied que la Grande Bretagne par Rapport aux Articles du Traité de Londres, dont la première a cru devoir se plaindre.—3.) **CONDUITE DU GOUVERNEMENT DES ETATS-UNIS DEPUIS LE TRAITÉ DE LONDRES.** Cette Conduite s'est manifestée, a. par le Refus de permettre la Vente des Prises Françaises dans les Ports des Etats-Unis ; b. par les Injures et les Calomnies contre le Gouvernement Français, publiées dans des Journaux et dans des Pamphlets ; c. par le Discours du Président au Congrès en Mai 1797.—a. **PROHIBITION AUX CORSAIRES FRANÇAIS DE VENDRE LEURS PRISES EN AMÉRIQUE.** Le fait est admis ; mais il n'est point contraire ni aux Engagemens, ni à la Neutralité des Etats-Unis. Cette Prohibition n'est tout

au plus que le Refus d'une Faveur qui, accordée à la France, aurait compromis la Neutralité de l'Amérique, et que, dans un Cas semblable, la France n'aurait pas accordée aux Etats-Unis, vu la Stipulation à cet Egard qui se trouve dans le Traité de 1786 entre la France et la Grande-Bretagne.

b. CALOMNIES ET INVECTIVES, PUBLIÉES CONTRE LA FRANCE DANS LES JOURNAUX D'AMÉRIQUE. Les Ministres Américains répondent à cette Plainte, que la Licence est inséparable de la Liberté de la Presse, qui est un des Principes fondamentaux de la Constitution des Etats-Unis ; que l'on n'a pas découvert encore de Remède contre ce Mal, si ce n'est que l'on puisse poursuivre en Justice les Auteurs et les Propagateurs des Calomnies ; que le Gouvernement Américain lui-même en a été souvent l'Objet ; et qu'il a été également calomnié dans des Journaux et Pamphlets, publiés en France, mais qu'il a dédaigné d'en faire le Sujet d'une Plainte.

c. DISCOURS DU PRÉSIDENT AU CONGRÈS EN MAI, 1797. Le Président, obligé en Vertu de la Constitution de rendre Compte au Congrès de la Situation de l'Union, devait faire Mention, dans son Discours, de celui qui avait été adressé par le Président du Directoire à M. Monroe, lors de la Remise des Letters de Rappel de ce Ministre ; Discours qui, combiné avec d'autres Mesures du Gouvernement Français, avait excité dans celui d'Amérique la plus grande Attention et des Sentimens pénibles.—Les Ministres terminent cette Réplique aux Griefs de la France par la Déclaration, que le Gouvernement Américain est très-disposé à les réparer aussitôt que l'on en aura prouvé la Justice—Ils n'osent pas récapituler les Plaintes de l'Amérique contre la France, puisqu'ils croient avoir épuisé ce Sujet dans leur Mémoire du 17 Janvier ; ils s'arrêtent cependant à la Loi portée depuis en France, et qui déclare de bonne Prise tout Bâtiment neutre qui serait entré dans un Port Anglais, ou sous la Domination de l'Angleterre ; ils discutent cette Loi d'après les Principes généraux de la Neutralité, d'après les Traités des Etats-Unis avec la France, et d'après la Situation particulière de l'Amérique qui, étant habitée d'un Peuple agricole, a le

plus grand Besoin du Commerce étranger ; ils font de très-vives Représentations contre cette Loi, en montrant que son Exécution, au lieu de diminuer le Commerce de l'Angleterre, y ajouterait tout celui de l'Amérique. Ils touchent légèrement les Observations générales que M. de Talleyrand, dans sa Lettre, avait faites sur le Gouvernement Américain, et par lesquelles il l'accusait de chercher à prolonger la Méintelligence qui subsiste entre les deux Nations, et de montrer de la Partialité pour la Grande Bretagne.—Les Opinions et les Liaisons personnelles des Ministres Plénipotentiaires ayant été le Sujet d'Animadversion dans la Lettre de M. de Talleyrand, les premiers mettent de la Chaleur à se justifier sous ce Rapport, et regrettent de voir que la Proposition de la France, de traiter avec un d'eux, n'a pas été accompagnée de la Déclaration de renoncer aux Demandes d'Argent, auxquelles les Envoyés n'avaient pas le Pouvoir de consentir. Ils refusent d'ailleurs d'abandonner la Négociation à un seul Ministre, aucun d'eux n'étant autorisé à se charger seul d'une telle Responsabilité, et leurs Pouvoirs et Instructions portant, qu'ils agiront conjointement. Les Ministres Américains finissent par manifester l'Espérance que les Préjugés qui auraient pu être conçus à leur Egard, ont été effacés par les Vérités qu'ils ont énoncées dans ce Mémoire ; mais s'il en était autrement, ils demandent que les Passeports qui pourraient être adressés à eux trois, ou à quelques-uns d'eux, soient accompagnés de Lettres de Sauf-Conduit, qui leur garantissent pour leurs personnes, pour leur Suite et pour leurs Effets, la Sûreté du Retour en Amérique.

The Ministers Plenipotentiary and Envoys Extraordinary from the United States of America to the French Republic, to the Minister of Exterior Relations.

CITIZEN MINISTER,

YOUR letter of the 28th Ventôse (18th March) in answer to a memorial of the undersigned, dated 17th
Tome III. a

January, was received the day after its date, and has been considered with the most respectful attention.

In that memorial, the undersigned, without furnishing cause for reproach, might have limited themselves to a statement of the numerous and well-founded complaints of the nation they represent. They have been induced to extend their observations to other subjects, by that sincere desire to re-establish harmony and mutual confidence between the two republics, which the government of the United States has never ceased to feel and to express. Supposing that those misrepresentations, to which human actions and human sentiments must ever continue to be exposed, might have impressed on the mind of the French Government, occupied with the great and interesting events of Europe, the unfounded suspicion of partiality, on the part of America, for the enemies of France, the undersigned cherished the hope, that a complete review of the conduct of their government, accompanied with a candid and thorough investigation of the real principles on which that conduct was founded, by removing prejudices, might restore sentiments which the United States have ever sought, and still seek to preserve.

In taking this review, it was obvious that a minute discussion of every particular fact might incumber the examination with details which previous explanations had rendered unnecessary, and therefore it was confined to those leading measures of which the particular cases were the necessary result. The undersigned, however, declared, and they still declare, that if the Government of the United States has given just cause of complaint to that of France, in any case, they are ready to consider and to compensate the injury : that negotiation, the opening of which they have for nearly six months unremittingly solicited and patiently attended, would, if entered upon, demonstrate the sincerity of this declaration.

Still animated by the same spirit which has dictated all their efforts to approach this Republic, still searching to remove unfavourable impressions, by a candid

display of truths, and a frank manifestation of the principles which have really governed the United States, and still endeavouring thereby to facilitate the restoration of harmony between two nations, which ought to be the friends of each other; the undersigned will lay before you the result of their reflections on your letter of the 28th Ventose.

Whatever force you may please to allow to their observations, the relative situation of the two Republics, it is hoped, will not fail to convince you that they proceed from the most perfect conviction of their justice. You contend, citizen minister, that the priority of complaint is on the side of France, and that those measures, which have so injured and oppressed the people of the United States, have been produced by the previous conduct of their government.

To this the undersigned will now only observe, that if France can justly complain of any act of the government of the United States, whether that act be prior or subsequent to the wrongs received by that government, a disposition and a wish to do in the case what justice and friendship may require, is openly avowed, and will continue to be manifested.

Your complaints against the United States may be classed under three heads.

1st. The inexecution of their Treaties with France.

2dly. The treaty of Amity, Commerce and Navigation formed with Great Britain.

3dly. The conduct of their Government since that Treaty.

If the undersigned shall be disappointed in their hope to convince you, that on no one of these points can their government be justly inculpated, yet they persuade themselves that the demonstration of the good faith and upright intention, with which it has ever acted, will be complete and satisfactory. This being proved, and a tender of compensation for any unintentional wrong being made, a base for accommodation is offered, which they must yet hope will be acceptable to France.

1st. The inexecution of the treaties between the United States and France. Under this head, you complain, first—That from the commencement of the war, the american tribunals have, in effect, pretended to the right of taking cognizance of the validity of prizes brought into the ports of the United States.

2dly. That against the textual sense of the treaty, the government has permitted the ships of the enemy to come to in their ports, after having captured property or vessels belonging to French citizens.

3dly. That it has ordered the arrest of a national corvette, anchored in the port of Philadelphia, and that the arrestation has extended to the Captain commandant.

4thly. The refusal to provide the means to execute the Consular Convention.

These complaints shall be considered in the order in which they are made.

1st. From the commencement of the war, the american tribunals have, in effect, pretended to the right of taking cognizance of the validity of prizes, brought into the ports of the United States by french cruizers.

You have not been pleased to state a case, in which this right has been asserted, and the undersigned are persuaded that no such case exists.

Far from asserting it, the Government of America has expressly disclaimed it. Mr. Jefferson, the then Secretary of State, in his letter to Mr. Morris of the 16th of August, 1793, which letter was laid before the French Government, declares, “ that the United States do not pretend any right to try the validity of captures made on the *high seas* by France, or any other nation on its enemies.

“ These questions belong of common usage, to the sovereign of the captor, and whenever it is necessary to determine them, resort must be had to his courts. This is the case provided for in the 17th article of the treaty, which says, that such prizes shall not be arrested, nor cognizance taken of the validity thereof; a stipulation

much insisted on by Mr. Genet and the consuls, and which we never thought of infringing or questioning."

Mr. Randolph, the successor of Mr. Jefferson, in his letter to Mr. Fauchet, of the 29th May, 1795, says, "As to prizes made by legal cruizers on the *high seas*, it never was the intention of the President to interpose, he having abstained (as the 17th article of our treaty of commerce imports) from examining into their lawfulness."

Mr. Monroe, in his letter to your predecessor, of the 15 March, 1796, says, "You will observe, I admit the principle, if a prize was taken upon the high seas, and by a privateer fitted out within the Republic or its dominions, that in such case, our courts have no right to take cognizance of its validity. But is any case of this kind alleged? I presume none is or can be shewn."

But the United States have deemed it an indispensable duty to prevent, so far as they could prevent, the practice of hostility against nations with whom they were at peace, within their own limits, or by privateers fitted out in their own ports.

For the reasoning of their government in support of this decision, the undersigned will again refer to the letter of Mr. Jefferson already quoted.

"Another doctrine advanced by Mr. Genet is, that our courts can take no cognizance of questions, whether vessels, held by them as prizes, are lawful prizes or not; that this jurisdiction belongs exclusively to their consulates here, which have been lately erected by the National Assembly into complete courts of admiralty.

"Let us consider first, what is the extent of the jurisdiction which the consulates of France may rightfully exercise here. Every nation has of natural right, entirely and exclusively all the jurisdiction which may be rightfully exercised in the territory it occupies. If it cedes any portion of that jurisdiction to judges appointed by another nation, the limits of their power must depend upon the instrument of cession. The United States and France have, by their consular convention, given mutually to their consuls jurisdiction in certain cases especially enu-

merated. But that convention gives to neither the power of establishing complete courts of admiralty, within the territory of the other, nor even of deciding the particular question of prize or not prize. The consulates of France then cannot take judicial cognizance of those questions here.

“ Of this opinion Mr. Genet was when he wrote his letter of May 27th, wherein he promises to correct the error of the consul at Charleston, of whom in my letter of the 15th I had complained as arrogating to himself that jurisdiction ; though in his subsequent letters he has thought proper to embark in the errors of his consuls.

“ The real question is, whether the United States have not a right to protect vessels within their waters, and on their coasts ? The Grange was taken within the Delaware, between the shores of the Jerseys and of the Delaware state, and several miles above its mouth. The seizing of her was a flagrant violation of the jurisdiction of the United States. Mr. Genet, however, instead of apologizing, takes great merit, in his letters, for giving her up. The William is said to have been taken within two miles of the shores of the United States. When the admiralty declined cognizance of the case, she was delivered to the french consul, according to my letter of June 25th, to be kept until the Executive of the United States should examine into the case, and Mr. Genet was desired, by my letter of June 29th, to have them furnished with the evidence on behalf of the captors, as to the place of capture ; yet to this day it has never been done. The brig Fanny was alleged to be taken within five miles from our shore : the Catharine within two miles and an half. It is an essential attribute of the jurisdiction of every country to preserve peace and punish acts in breach of it, and to restore property taken by force within its limits. Were the armed vessel of any nation to cut away one of our own from the wharves of Philadelphia, and to chuse to call it a prize, would this exclude us from the right of redressing the wrong ? Were it the vessel of another nation, are we not equally bound to protect it while within our li-

mits? Were it seized in any other waters or on the shores of the United States, the right of redressing it is still the same; and humbled indeed would be our condition, were we obliged to depend for that on the will of a foreign consul, or on any negotiation with diplomatic agents. Accordingly this right of protection within its waters, and to a reasonable distance on its coasts, has been acknowledged by every nation and denied to none; and if the property seized be yet within their power, it is their right and duty to redress the wrong themselves.

“ France herself has asserted the right in herself, and recognized it in us, in the 6th article of our treaty, where we mutually stipulate, that we will *by all the means in our power* (not by negotiation) protect and defend each other's vessels and effects in our ports or roads, or on the seas near our countries, and recover and restore the same to the right owners. The United Netherlands, Prussia and Sweden, have recognized it also in treaties with us; and indeed it is a standing formule inserted in almost all the treaties of all nations, and proving the principle to be acknowledged by all nations.”

In the letter of Mr. Randolph to Mr. Fauchet, already cited, that gentleman resumes this subject, and Mr. Fauchet in answer says: “ The Admiralty Courts have always ceded to the entreaties of our enemies for their intervention in prize causes; in truth, frequently and almost constantly, by using the double plea of which you spoke to me, that is to say, by arguing either of seizure within the jurisdiction line of the United States, or of armament or augmentation of armament of the capturing vessels, in their ports. On this subject, Sir, you request me to specify a circumstance where a prize was arrested, which did not come under that denomination, and you take the trouble to establish, that they have a right to intervene in every case that can be brought under those heads. In the first place, Sir, I never have, at least to my recollection, contested the right of your courts, or of the government, to interfere in matters of the nature of those you mention.”

It would seem to be incontestible, that the principle asserted by the United States which indeed is an unquestionable principle, has been admitted in its utmost latitude by France. It is believed that in the execution of this principle, the government and tribunals have only been guided by a sense of duty and the obligations of justice. If in any case that can be selected, wrong has unintentionally been committed, that wrong has grown inevitably out of the situation of the United States, and of the conduct of persons they have been unable to controul and will with readiness be corrected.

2dly. That against the textual sense of the treaty, the government has permitted the ships of the enemy to come to in their ports, after having captured property or vessels belonging to french citizens.

It is to be regretted, that you have not been pleased to state some particular case, if the case be founded on a fact, which has manifested this permission: or if it be founded in principle, the precise difference between the construction given by the President of the United States to the article of the treaty of the 6th of February, 1778, relative to this subject, and that for which you may contend. For the want of such a guide, the undersigned may discuss unnecessary points, without giving you complete satisfaction on that which in your mind may constitute the real difficulty.

The 17th article is in these words: " It shall be lawful for the ships of war of either party and privateers freely to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any duty to the officers of the admiralty or other judges; nor shall such prizes be arrested or seized when they come to or enter the ports of either party, nor shall the searchers or other officers of those places, search the same or make examination concerning the lawfulness of such prizes; but they may hoist sail at any time and depart, and carry their prizes to the places expressed in their commissions, which the com-

their previous treaties had not stipulated advantages or imposed disabilities.

They could not refuse to one belligerent power those rights of ordinary hospitality which were enjoyed by others, which the common usages of nations permit, and which were forbidden by no particular treaty. Such refusal would have been manifestly partial, and a plain departure from that neutral position in which the United States found themselves, and which good faith, integrity, and their best interests impelled them religiously to maintain.—Thus circumstanced, it was the duty of the government to give its true construction to a treaty granting advantages to one of the belligerent powers, and imposing disabilities on another. In searching for this true construction, its best judgment ought to be exercised, and the dictates of that judgment ought to be obeyed. The United States have done so. They have refused shelter in their ports to the prizes made on the French Republic, or to the ships of war belonging to the enemy and accompanying such prizes.

They have permitted ships of war, not bringing prizes with them, to remain in their ports, without instituting tribunals to enquire whether such ships have at any time captured French citizens or French property. The reasoning on which this decision was founded, and which appears to the undersigned to have been conclusive, will not now be repeated. It has been detailed in several letters from the Secretary of State of the United States to the Minister of France in Philadelphia.—The undersigned will only observe, that the construction supposed to be just, and for that reason actually put upon the article, is believed to be more favourable than the literal construction to the interests of France.

Ships of war which have made prizes on this Republic, if they enter the ports of the United States without such prizes, ought indeed, under the letter of the article, to be ordered to depart as soon as the fact can have been ascertained; but the prizes themselves are permitted to remain in safety. By the actual construction,

manders of such ships of war shall be obliged to show : on the contrary, no shelter or refuge shall be given in their ports to such as shall have made prize of the subjects, people or property of either of the parties ; but if such shall come in, being forced by stress of weather, or the dangers of the sea, all proper means shall be vigorously used that they go out and retire from thence as soon as possible."—Do you contend, citizen minister, that this article ought to be rigidly construed according to its letter ? If you do, it becomes necessary to ascertain what are the disabilities to which its letter really subjects the vessels belonging to the enemies of France. They are 1st. That no shelter or refuge shall be given in the ports of the United States to the ships of war or privateers belonging to the enemy, *which shall have made prize* of the subjects, people or property of France.—2dly. That if such ships of war or privateers shall come in, being forced by stress of weather or the danger of the seas, all proper means shall be vigorously used that they go out and retire from thence as soon as possible.

The letter of the article does not exclude generally the ships of war belonging to the enemy, but those only *which have made prize* of the subjects, people or property of France. That the vessel shall have made a prize is a part and an essential part of the description. Whether the vessel be or be not within this description is a fact, the ascertainment of which must precede the measures to be taken in consequence of that fact. When the fact shall have been ascertained, the letter of the article denies refuge or shelter to the ship of war or privateer, but not to the prize which may have been made. You well know, citizen minister, that if the letter of the article is to be set up against its spirit, when the former is most favourable to the views of France, the letter must still be adhered to, though it should counteract those views. The situation of the United States bound them to observe, between the belligerent powers, an exact neutrality in all cases where

a ship of war entering without a prize, is permitted to remain, but all shelter is refused to a ship of war which is accompanied by a prize, and also to the prize itself. It would seldom happen that a ship of war, not driven in by stress of weather, or the danger of the seas, would wish to continue in port longer than the time which would unavoidably be consumed in ascertaining the fact of her having made a prize, but it must often happen, that a prize now excluded from the ports of the United States, would find shelter in them if the literal construction of the treaty should be adopted.

This exposition given by the United States to this article was made known in 1793---France has never signified a wish that the literal construction throughout should be pursued : This strengthens the opinion entertained by the undersigned, that the rule on this subject, so early established by the American Government, is considered by the Republic as more favourable to its interests, than a rule conforming entirely to the letter of the article.

3dly. "The Government of the United States has ordered the arrest of a national corvette * anchored in the port of Philadelphia, and the arrestation has been extended to the Captain-commandant."

The undersigned beg leave to state the case which is the foundation of this complaint. In the statement itself they trust will be found a complete justification of the conduct of the United States.

The *Cassius*, under the name of "*Les Jumeaux*," was fitted and armed for a vessel of war in the port of Philadelphia, in violation of a law of the United States. In December, 1794, having escaped from the port to descend the river, orders were given to the militia of the State of Delaware to intercept her. The attempt was made and failed. The crew of *Les Jumeaux*, which was unexpectedly found to be very numerous, resisted the officers who went on board, manned their cannon and brought them to bear on the cutter in which the

militia, about forty in number, were embarked. Their force being inadequate to the enterprize, they retired with an intention to return the next day with a reinforcement. They did so, but Les Jumeaux had sailed and gone to sea. The agent, Mr. Guenet, by whom Les Jumeaux had been fitted out, was tried at the circuit court in Philadelphia, convicted of the offence, and received sentence of fine and imprisonment.

Les Jumeaux proceeded to St. Domingo; Samuel B. Davis, a citizen of the United States, there took the command of her, with a commission from the French Government. Davis probably sailed from Philadelphia in Les Jumeaux, for the purpose of finally taking the command of her. Her name was now changed to "le Cassius," and on a cruize she took a schooner called the "William Lindsay," belonging to Messrs. Yard and Ketland, of Philadelphia, Mr. Ketland having purchased an interest in her after her sailing. The schooner and her cargo were condemned as a prize at St. Domingo. In August, 1795, Captain Davis, commanding the Cassius, came with her to Philadelphia; she was immediately known. Mr. Yard, with a view of obtaining an indemnification for the loss of the schooner and her cargo, libelled the Cassius in the District Court, and caused the captain to be arrested. Soon after, the Supreme Court, being in session, Captain Davis' counsel applied for and obtained a prohibition to the District Court to stop its proceedings, by which the suits both against him and le Cassius were defeated. The prohibition was granted on this principle, That the trial of prizes taken without the jurisdiction of the United States and carried to places within the jurisdiction of France for adjudication, by French vessels, and all questions incidental to it, belong exclusively to the French tribunals; and consequently that its vessels of war, and their officers, are not liable to process of our courts, predicated upon such capture and subsequent proceeding within the jurisdiction of the French Government.

Messrs. Yard and Ketland having failed to obtain indemnification in this mode, procured new process, on

the information of Mr. Ketland, to be issued from the circuit court, by which *Le Cassius* was attached as a vessel armed and equipped as a ship of war, in the port of Philadelphia, with intent to cruize and commit hostilities against nations with whom the United States were at peace, in violation of the act of congress prohibiting such armament. Mr. Adet complained that the process was taken out of the circuit court, because, as he alleged, it had no jurisdiction, and that it would be attended with delay, that court sitting but twice a year; whereas the district court, in which it was said the prosecution, if at all permitted, should have been commenced, was always open. Gentlemen of legal knowledge were consulted on the point of jurisdiction in this case, and they were decided in their opinion, that the circuit court had jurisdiction, and exclusively of the district court. The government of the United States had no part in originating this prosecution; and the district attorney, in behalf of the United States, took measures, at each term of the circuit court, to prepare the cause for trial, and on a plea calculated to defeat the prosecution. At length, in October term, 1796, the cause was brought to an hearing. In the course of the argument, the question of jurisdiction presented itself. The court adjourned until next day to consider of it: and the following morning dismissed the suit.

The undersigned may be permitted to ask, whether in a change of situation, placing France precisely in the circumstances of the United States, either the corvette or her captain would have escaped.

4thly. The refusal to provide the means to execute the consular convention of the 14th November, 1788.

As you have not selected the particular parts of this convention supposed to remain unexecuted, the undersigned must necessarily consider the more definite charges heretofore made on the same subject as being adopted by you.

Your predecessor in office, in his letter to Mr. Mont-

roe of the 19th Ventôse, 4th year (9th March, 1796,) complains 1st, That the clause granting to French consuls the right of judging exclusively in disputes between Frenchmen, is become illusory for the want of laws giving them the means of having their decisions executed.

2dly. The right of causing mariners who desert to be arrested, is rendered ineffectual, because the judges charged by the laws with issuing the mandates of arrest have lately required the presentation of the original roll of the crew, in contempt of the 5th article admitting in the tribunals of both powers, copies certified by the consul.

It is then understood to be required,

1st. That the officers of the United States should execute the judgments of the consuls :

2dly. That the judges of the United States should issue mandates of arrest against persons charged with being deserters, without a view of the *original* roll of the crew.

It is very justly observed by Mr. Jefferson, in his letter to Mr. Morris, which has been already cited, that, "every nation has, of natural right, entirely and exclusively all the jurisdiction which may be rightfully exercised in the territory it occupies. If it cedes any portion of that jurisdiction to judges appointed by another nation, the limits of their power must depend upon the instrument of cession." The parties to the convention profess its object to be, "to define and establish in a reciprocal and permanent manner the functions and privileges of consuls and vice-consuls."

It is to be expected then, as well from the intention of the convention establishing the tribunal, as from the nature of the tribunal itself, which is a foreign court, constituted by a foreign authority, governed by foreign laws, and amenable for its conduct to a foreign government, that no power is to be implied, and that it possesses no capacity, which is not expressly given to it. To ascertain then the precise extent of the stipulation, let the convention itself be considered.

The first point rests exclusively on the 12th article which is in these words, "All differences and suits between the subjects of his most Christian Majesty in the United States, or between the citizens of the United States within the dominions of the most Christian King, and particularly all disputes relative to the wages and terms of engagement of the crews of the respective vessels, and all differences, of whatever nature they may be, which may arise between the privates of the said crews, or between any of them, and their captains, or between the captains of different vessels of their nations, shall be determined by the respective consuls and vice-consuls, either by a reference to arbitrators, or by a summary judgment, and without costs. No officer of the country, civil or military, shall interfere therein, or take any part whatever in the matter : and the appeals from the said consular sentences shall be carried before the tribunals of France, or of the United States to whom it may appertain to take cognizance thereof."

In this article no engagement is made to furnish the means of executing consular judgments. If, therefore, the preceding positions be just, there is an end of the question. But other arguments present themselves in support of the construction contended for by the United States. The consular authority in a foreign country is usually either voluntary or enforced by the laws of the nation to which the consuls belong, and which may bind their own citizens or subjects under penalties to be inflicted on their return, or otherwise. Upon this idea, it was sufficient to stipulate a permission of the jurisdiction in exclusion of the courts of the country : on any other idea, it would have been necessary to have stipulated explicitly, and perhaps in detail, the manner in which its sentences should be executed. To accede to the demands of France would be to erect in a foreign country complete courts of justice, with effectual process to compel the appearance of parties and witnesses, and to execute their decisions. And as the transactions in commerce would not in the nature of things be con-

fined to foreigners alone, the citizens of the country must often be necessary witnesses to those transactions, and of course rendered amenable to this foreign jurisdiction in their own country; whereas the jurisdiction granted by the article, is only of french consuls over french citizens in the United States, and reciprocally of american consuls over the citizens of the United States in France. This would be to extend by implication, the authority of a foreigner over persons not contemplated by the treaty as subject to it. The article declares too, "that no officer of the country, civil or military, shall interfere therein, or take any part in the matter." But sheriffs, marshals, and their deputies, or any other persons appointed by and acting under the laws of the country, are "officers of the country," and consequently cannot aid in the execution of consular decisions, because they are expressly forbidden, "to interfere therein, or take any part whatever in the matter."

But was it meant that the laws should give consuls the power to appoint such executive officers of their own nation? Should it be conceded that a person so appointed could not be considered as an officer of that nation by virtue of and according to whose laws he held his office, still we find no such thing in the convention. On the contrary, in the case of deserters from vessels, mentioned in the 9th article, whom the consuls are authorized to cause to be arrested, they are expressly directed to apply in writing to the "courts, judges, and officers competent," to make the arrests, meaning the courts, judges, and officers of the country where the consuls reside. In addition to this, if power could be given to consuls to appoint officers to execute their decisions, these officers must of course have their fees of compensation to be paid by one or other of the parties. But the article giving the jurisdiction declares that the consular judgments shall be "without costs."

The second complaint is, that the judges of the United States have required the exhibition of the

original roll of the crew as the testimony which would authorize the issuing of a mandate, to apprehend a french mariner charged as a deserter.—The right to require these mandates is founded entirely on the 9th article of the consular convention.

That declares, " That the consuls and vice-consuls shall address themselves to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving by an exhibition of the *registers of the vessel or ship's roll*, that those men were part of the said crews ; and on this demand *so proved* (saving however where the contrary is proved) the delivery shall not be refused."

It would be an idle waste of time to attempt to prove to you, citizen minister, that *the register of the vessel or ship's roll*, is not a copy of that paper, or that a copy does not satisfy a law which peremptorily requires the exhibition of the original. Your predecessor has thought proper to refer to the 5th article of that instrument ; but a slight perusal of that article will convince you, citizen minister, that it does not apply to the case. When the judges of the United States determined that the mandate of arrest could not be issued on the exhibition of a " copy of the register of the vessel or ship's roll," they did not so decide for the purpose of giving effect to the system of the government, but because the treaty was clearly understood by them positively to require the presentation of the original.

The undersigned regret, citizen minister, that your researches concerning the United States have not extended to their courts. You would have perceived and admired their purity. You would have perceived that America may repose herself securely on the integrity of her judges, and your justice would have spared the insinuations concerning them which have closed this part of your letter.

The undersigned will now consider what you have stated with respect to the treaty of amity, commerce, and navigation, formed with Great Britain.

You complain, citizen minister, in very strong terms, of the deception alleged to have been practised with respect to the objects of Mr. Jay's mission to London, and also of the contents of the treaty which that mission produced. You are pleased to observe that it was then said, that Mr. Jay had been sent to London, *only* to negotiate arrangements relative to the depredations committed on the american commerce by the cruizers of Great-Britain.

By whom, Citizen Minister, was this said? not by the President in his message to the Senate, announcing the nomination of Mr. Jay: nor by the then Secretary of State, in communicating to Mr. Fauchet the subject of that mission. The documents with respect to this assertion have been stated, and have been fully commented on. It has been fully demonstrated that the American Government did not seize this occasion to practise a deception so unnecessary, so foreign to its well-known character, and which could produce only mischief to itself. As you have in no degree weakened the testimony which is relied on as disproving this allegation, or produced any sort of evidence in support of it, the undersigned cannot but mingle some degree of surprize with the regrets they feel at seeing it repeated, accompanied with the charge of that "dissimulation," of which all who examine well the conduct of the Government of the United States will so readily pronounce it to be incapable. You also criminate the secrecy which attended this negotiation. To this complaint, when formerly insisted on, it was answered, that so much of it as was material to this republic was immediately communicated to her minister; and that she had no right to enquire further, or to be dissatisfied that other objects were not disclosed; that it is not the practice of France, nor of any other nation, to communicate to others the particular subjects of negotiation which may be contemplated; and that no nation could be independent, which admitted itself to be accountable to another, for the manner in which it might judge

proper to regulate its own concerns, on points in which that other was not interested, or which was bound to give previous intimation of every article, which might be inserted in a treaty, formed on the avowed principle of leaving in full force all pre-existing engagements. This reasoning is answered only by terming it a "sophism," "an insidious subterfuge." May not any reasoning, on any subject, be answered in the same manner? But can such an answer impair its force? Without doubt, Citizen Minister, the Government of the United States, when it informed France that the negotiations of Mr. Jay would not in any respect weaken its engagements to this republic, would have added, that they might eventually extend to a commercial treaty, if it had been supposed that the omission to give such information could really be considered as a breach of legitimate obligation, or as an evidence of diminished friendship. The information was most probably not given, because it was unusual, and because it could neither be considered as proper, as necessary, or as material. The undersigned trust that the painful and unavailing discussions on this subject, rendered so unpleasant by the manner in which it has been treated, will never again be renewed.

Passing to the treaty itself, you say that the small majority by which it was sanctioned in the two houses of Congress, and the number of respectable voices raised against it in the nation, depose honorably in favour of the opinion which the French Government has entertained of it. But you must be sensible, Citizen Minister, that the criterion by which you ascertain the merits of the instrument in question, is by no means infallible, nor can it warrant the inference you draw from it. In a republic like that of the United States, where no individual fears to utter what his judgment or his passions may dictate, where an unrestrained press conveys alike to the public eye the labours of virtue, and the efforts of particular interests, no subject which agitates and interests the public mind can unite the public voice,

or entirely escape public censure. In pursuit of the same objects a difference of opinion will arise in the purest minds, from the different manner in which those objects are viewed; and there are situations in which a variety of passions combine to silence the voice of reason, and to betray the soundest judgments. In such situations, if the merit of an instrument is to be decided, not by itself, but by the approbation or disapprobation it may experience, it would surely be a safer rule to take as a guide the decision of a majority, however small that majority may be, than to follow the minority. A treaty too may be opposed as injurious to the United States, though it should not contain a single clause which could prejudice the interests of France. It ought not to be supposed that a treaty would, for that reason, be offensive to this republic.

Had you been pleased to state any objections to this instrument drawn from the compact itself, the undersigned would have given to those objections the most serious and respectful consideration. But it is supposed that you adopt, without adding to, the complaints made by your predecessor and by Mr. Adet, when you observe, that you will not repeat what they have said. These complaints have been amply discussed in the memorial the undersigned had the honor to transmit you, bearing date 17th of January. It is believed, to have been demonstrated that the stipulations complained of do not, in the most remote degree, wound the interests of France, affect the pre-existing engagements of the United States, or change their situation in relation to the belligerent powers. Such, incontestably, was and is the opinion of the American Government, and in this opinion only would the treaty have been agreed to. As no one of the arguments which have, at various times, been urged on this subject, on the part of the United States, has ever yet been noticed, the undersigned deem unnecessary any attempt to re-urge or to strengthen them. You say that you will content yourself " with observing summarily, that in this treaty

every thing having been provided to turn the neutrality of the United States to the disadvantage of the French Republic, and to the advantage of England ; that the Federal Government having in this act made to Great-Britain concessions the most unheard of, the most incompatible with the interests of the United States, and the most derogatory from the alliance which existed between the said States and the French Republic, the latter was perfectly free to avail itself of the preservative means with which it was furnished by the laws of nature and of nations, and by its anterior treaty, for the purpose of parrying the inconveniences of the treaty of London. Such are the reasons which have determined the *arrêtés* of the Directory of which the United States complain, as well as the conduct of its agents in the Antilles." But you have not shewn a single provision, " which turns the neutrality of the United States to the disadvantage of the French Republic and to the advantage of England." You have not shewn a single concession " incompatible with the interests of the United States," or " derogatory from their alliance with France."

It is considered as having been demonstrated, that this treaty leaves the neutrality of the United States, with respect both to France and England, precisely in its former situation, and that it contains no concessions which are either unusual, or derogatory from their alliance with this republic. But if in forming this judgment the American government has deceived itself, still it ought to be remembered, that it has ever manifested a readiness to place France on the footing of England, with respect to the articles complained of.

You suppose that the 2d article of the treaty between France and the United States justifies the *arrêtés*, of which the latter power complains: But that article only entitles either of the contracting parties to a participation of any particular favour in respect of commerce or navigation, which might thereafter be granted by the other to other nations, on allowing the same

compensation, if the concession was conditional. It has never been pretended to extend to pre-existing rights held and exercised under the law of nations, and barely recognized by any subsequent treaty. If this could be insisted on, still it was shewn incontestibly by the undersigned, that the *arrêté* particularly complained of, so far as it professes to found itself on the treaty with England, greatly transcends that treaty, and in its most noxious article, that requiring a rôle d'équipage, has no relation to it. This all essential circumstance you have not been pleased to notice; and it is with infinite regret the undersigned observe, that the discussions at which you hint are to be limited to the abuses of the principle established by the *arrêté*, and not extended to the compatibility of the principle itself, with justice, the laws of nations, or existing treaties.

It is well known that such a discussion, if indeed the undersigned could be permitted to enter upon it, would avail but little, since the vast mass of american property captured by the cruizers, and condemned by the courts of France, has been found in vessels not furnished with a rôle d'équipage.

The undersigned have been minute in their attention to every syllable you have uttered on this interesting subject, because it has been often considered as having given cause of just irritation to France, and they are sincerely desirous of probing to the bottom every subject which may have assumed that complexion. Their wish is unaffected, to give to every complaint its real value, in order thus to prepare the way for accommodation, by the relinquishment of such as are not well founded, and the admission of those which have a real existence.

The third head of your complaints relates to the conduct of the Government of the United States since their treaty with England.

You observe, that as soon as the treaty in question had been put in execution, the Government of the United

States seemed to think itself dispensed from the observance of any measures towards this republic, and you adduce in support of this general observation,

1st. The refusal to permit in the ports of the United States the sale of prizes made by French cruizers.

2dly. The invectives and calumnies against the French Government, its principles and its officers, contained in certain journals and pamphlets published in the United States, &c.

3dly. The speech of the President to Congress in May last.

1st. The Government of the United States does not permit the sale in their ports of prizes made upon England by the cruizers of France.

The fact is admitted. To erect it into an offence, it becomes necessary to prove that this measure violates either the engagements or the neutrality of the United States. Neither is attempted. To show that it violates neither, had this been rendered necessary, would by no means have been deemed an arduous task. It will now only briefly be observed, that the 17th article of the treaty of commerce of the 6th of February, 1778, which alone relates to this subject, so far from stipulating for the sale of prizes in the ports of either nation, limits itself to a declaration, that the captors shall have liberty to bring them into port, free from duties, arrests, and searches, and to depart with them to the places expressed in their commissions, thereby evidently contemplating the then existing regulations of this nation. France has manifested her own opinion on this subject, in her treaty with Great Britain of the 26th of September, 1786. The 16th article of that treaty declares, "that it shall not be lawful for foreign cruizers who shall not be the subjects of one or the other crown, and who shall have a commission from any prince, or state, enemies of the one or the other, to arm their vessels in the ports of one or the other of the said two kingdoms, *to sell there what they shall have taken, or to change the same in any manner whatever.*" In a war

with England then, France being neutral, the cruizers of the United States are forbidden to sell their prizes in the ports of this Republic. The 17th article of the treaty of February, 1778, being reciprocal, France has pronounced her decision, that it does not give her cruizers a right to sell their prizes in the ports of America. If this right had been given by the treaty of February, 1778, that between the United States and England could not be construed to impair it. Nor is the prohibition a departure from the neutrality of the United States. A nation to violate its neutrality must manifest a partiality for one of the belligerent powers, must accord favours, not stipulated, by pre-existing treaties, to one, which it refuses to the other. This is not even alleged in the present instance. Far from permitting British cruizers to sell in the United States prizes they have made on the French, they are not even allowed to bring them into port. A candid consideration of this subject will prove, that the withdrawal of a favour, the grant of which manifested so strongly the attachments of the United States, far from justifying the resentments which have been expressed in consequence of it, can only be attributed to the solicitude of the American Government, to render perfectly unexceptionable its observance of that neutrality which it professes to maintain. It has been shown unequivocally to have been the opinion of the contracting parties, that the treaty of commerce, of the 6th of February, 1778, did not give to either, being at war, a right to sell its prizes in the ports of the other being at peace. It is not pretended, that this is one of the rights accruing, without special stipulation, under the laws and usages of nations.

It is not then a right at all. If granted, it is a voluntary favour. But a voluntary favour, essential in the prosecution of the war, if granted by a neutral to one belligerent power, and of necessity refused to the other, affords to that other at least a more plausible pretext for complaint than has been given by any other act of

the Government of the United States. What, in such a situation, would have been the language of France? Would this Republic permit a neutral nation, not bound thereto by any obligation whatever, to allow in its ports as a voluntary favour the sale of prizes made on french citizens, while the same favour was of necessity denied to the cruizers of France.

It is believed, that such an use of neutrality would not be permitted, and the undersigned felicitate themselves and their country that the government they represent has never intentionally given to this republic any cause of dissatisfaction, as serious as this would have been. You will not fail to observe, Citizen Minister, that this heavy accusation, when analysed, is nothing more than the refusal of a mere favour on the part of the American Government, the grant of which might have been dangerous to itself, might have drawn it from that neutral station which it is its duty to observe, and which favour France had previously, in the most explicit terms, declared its determination not to grant under similar circumstances to the United States.

2dly. Your second allegation is, "that the journals known to be indirectly under the controul of the cabinet have redoubled their invectives and calumnies against the Republic, its magistrates and its envoys; and that pamphlets openly paid for by the Minister of Great-Britain have re-produced, under every form, those insults and calumnies without having ever drawn the attention of the government to a state of things so scandalous, and which it might have repressed."

The genius of the constitution, and the opinions of the people of the United States, cannot be overruled by those who administer the government. Among those principles deemed sacred in America; among those sacred rights considered as forming the bulwark of their liberty, which the government contemplates with awful reverence, and would approach only with the most cautious circumspection, there is no one of which the impor-

tance is more deeply impressed on the public mind than the liberty of the press. That this liberty is often carried to excess, that it has sometimes degenerated into licentiousness, is seen and lamented; but the remedy has not yet been discovered. Perhaps it is an evil inseparable from the good with which it is allied: perhaps it is a shoot which cannot be stripped from the stalk, without wounding vitally the plant from which it is torn. However desirable those measures might be which might correct without enslaving the press, they have never yet been devised in America. No regulations exist which enable the government to suppress whatever calumnies or invectives any individual may chuse to offer to the public eye; or to punish such calumnies and invectives, otherwise than by a legal prosecution in courts which are alike open to all who consider themselves as injured. Without doubt this abuse of a valuable privilege is matter of peculiar regret when it is extended to the government of a foreign nation. The undersigned are persuaded, it never has been so extended with the approbation of the Government of the United States. Discussions respecting the conduct of foreign powers, especially on points respecting the rights and interests of America, are unavoidably made in a nation where public measures are the results of public opinion; and certainly do not furnish cause of reproach; but it is believed, that calumny and invective have never been substituted for the manly reasoning of an enlightened and injured people, without giving pain to those who administer the affairs of the Union. Certainly this offence, if it be deemed by France of sufficient magnitude to be worthy of notice, has not been confined to this Republic. It has been still more profusely lavished on its enemies, and has even been bestowed, with an unsparing hand, on the Federal Government itself. Nothing can be more notorious than the calumnies and invectives, with which the wisest measures and the most virtuous characters of the United States have been pursued and traduced. It

is a calamity incident to the nature of liberty, and which can produce no serious evil to France. It is a calamity occasioned neither by the direct nor indirect influence of the American Government. In fact, that government is believed to exercise no influence over any press. You must be sensible, Citizen Minister, with how much truth the same complaint might be urged on the part of the United States. You must know well, what degrading and unworthy calumnies against their government, its principles, and its officers, have been published to the world by french journalists, and in french pamphlets: That government has even been charged with betraying the best interests of the nation, with having put itself under the guidance of—nay more, with having sold itself to a foreign court. But these calumnies, atrocious as they are, have never constituted a subject of complaint against France. Had not other causes, infinitely more serious and weighty, interrupted the harmony of the two Republics, it would still have remained unimpaired, and the mission of the undersigned would never have been rendered necessary.

3dly. You complain of the speech of the President made to Congress in May last. It denounces, you say, the Executive Directory, as searching to propagate anarchy and division in the United States. The constitution of the United States imposes on the President this important duty: "He shall, from time to time, give to the Congress information of the state of the Union." It having been deemed proper to recall the minister from the United States to this republic, and to replace him by a citizen, the objects of whose mission, as expressed in his letters of credence, were "to maintain that good understanding, which, from the commencement of the alliance, had subsisted between the two nations; and to efface unfavourable impressions, banish suspicions, and to restore that cordiality which was at once the evidence and pledge of a friendly union." The President of the Directory ad-

addressed the recalled Minister in the following terms: " In presenting to-day to the Executive Directory your letters of recall, you give to Europe a strange spectacle. France, rich in her liberty, surrounded with the train of her victories, strong in the esteem of her allies, will not abase herself by calculating the consequences of the condescensions of the American Government to the suggestions of its ancient tyrants. The French Republic hopes, moreover, that the successors of Columbus, Raleigh, and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh in their wisdom the magnanimous good will of the french people with the crafty caresses of certain perfidious persons, who meditate to bring them back to their ancient slavery. Assure, Mr. Minister, the good american people, that like them we adore liberty; that they will always have our esteem, and that they will find in the french people that republican generosity, which knows as well how to grant peace as to cause its sovereignty to be respected."

The change of a minister is an ordinary act, for which no government is accountable to another, and which has not heretofore been " a strange spectacle" in France, or in any other part of Europe. It appears to be a measure not of itself calculated to draw on the government making such change, the strictures or the resentments of the nation to which the minister is deputed. Such an effect, produced by so inadequate a cause, could not fail to command attention, while it excited surprize.

This official speech, addressed by the Government of France to that of the United States, through its minister, charges that government with condescensions to the suggestions of its ancient tyrants, speaks of the crafty caresses of certain perfidious persons, who meditate to bring back the successors of Columbus, Raleigh, and Penn, to their ancient slavery, and desires the minister to assure, not his *government*, but the *good*

people of America, that they will always have the esteem of France, and that they will find in the french people, that republican generosity, which knows as well how to grant peace as to cause its sovereignty to be respected.

That a minister should carry any assurances from a foreign government to the people of his nation, is as remarkable as the difference between the manner in which his government and his people are addressed. His government are charged with condescension to the suggestions of the ancient tyrants of his country, but the people are considered as loving liberty, and they are to be assured of the perpetual esteem of France. This esteem they are to weigh against the crafty caresses of those perfidious persons who meditate to bring them back to their former slavery.

When this speech, thus addressed directly to the Government and people of the United States, in the face of Europe and the world, came to be considered in connexion with other measures ; when it came to be considered in connexion with the wide spreading devastation to which their commerce was subjected, with the cruel severeties practised on their seamen, with the recall of the Minister of France from the United States, and the very extraordinary manner in which that recall was signified by him both to the Government and people, with the refusal even to hear the Messenger of Peace, deputed from the United States for the sole purpose of conciliation ; it could not fail to make on the american mind a deep and serious impression. It was considered as a fact too important to be held from the Congress, by that department of the government, which is charged with the duties of maintaining its intercourse with foreign nations, and of making communications to the legislature of the Union. The President, therefore, did communicate it in the following words : " With this conduct of the French Government it will be proper to take into view the public audience given to the late

Minister of the United States on his taking leave of the Executive Directory. The speech of the President discloses sentiments more alarming than the refusal of a minister, because more dangerous to our independence and union, and at the same time studiously marked with indignities towards the Government of the United States. It evinces a disposition to separate the people of the United States from the government; to persuade them that they have different affections, principles and interests from those of their fellow-citizens, whom they themselves have chosen to manage their common concerns; and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision which shall convince France and the world, that we are not a degraded people, humiliated under a colonial spirit of fear and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character, and interest."

"I should have been happy to have thrown a veil over these transactions, if it had been possible to conceal them; but they have passed on the great theatre of the world, in the face of all Europe and America, and with such circumstances of publicity and solemnity, that they cannot be disguised, and will not soon be forgotten; they have inflicted a wound in the american breast. It is my sincere desire, however, that it may be healed."

It is hoped, that this communication will be viewed in its true light, that it will no longer be considered as a denunciation of the Executive Directory, but as the statement of an all-important fact by one department of the American Government to another, the making of which was enjoined by duties of the highest obligation.

The undersigned have now, Citizen Minister, passed through the complaints you urge against the Government of the United States. They have endeavoured to consider those complaints impartially, and to weigh them in the scales of justice and of truth. If any of them be well founded, France herself could not demand more

readily, than America would make, reparation for the injury sustained. The President of the United States has said, " If we have committed errors, and these can be demonstrated, we shall be willing to correct them ; if we have done injuries, we shall be willing, on conviction, to redress them." These dispositions on the part of the government have been felt in all their force by the undersigned, and have constantly regulated their conduct.

The undersigned will not resume, Citizen Minister, the painful task of re-urging the multiplied injuries which have been accumulated on their country, and which have been, in some degree, detailed in their Memorial of the 17th January last. They cannot, however, decline to remonstrate against a measure which has been announced since that date. The Legislative Councils of the French Republic have decreed that,

1st. The condition of ships, in every thing which concerns their character as neutrals or enemies, shall be determined by their cargo ; consequently, every vessel found at sea, laden in whole or in part with merchandize coming out of England, or its possessions, shall be declared good prize, whoever may be the proprietors of such commodities or merchandize.

2dly. No foreign vessel, which in the course of its voyage shall have entered into an English port, shall be admitted into any port of the French Republic, but in the case of necessity ; in which case such vessel shall be obliged to depart from such port so soon as the cause of entry shall have ceased.

This decree too deeply affects the interests of the United States to remain unattended to by their ministers. They pray you, therefore, Citizen Minister, to receive their respectful representations concerning it.

The object of the decree, is to cut off all direct intercourse between neutrals and Great Britain, or its possessions, and to prevent the acquisitions, even by circuitous commerce, of those articles which come from England or its dominions.

The right of one nation to exchange with another the surplus produce of its labour, for those articles which may supply its wants, or administer to its comfort, is too essential to have been ever classed among those admitted to be in any degree doubtful. It is a right in ceding which a nation would cede the privilege of regulating its own interests, and providing for its own welfare. When any two nations shall chuse to make war on each other, they have never been considered, nor can they be considered as thereby authorizing themselves to impair the essential rights of those who may chuse to remain at peace. Consequently these rights, the free exercise of which is essential to its interests and welfare, must be retained by a neutral power, whatever nations may be involved in a war.

The right of a belligerent to restrain a neutral from assisting his enemy by supplying him with those articles which are defined as contraband, has been universally submitted to; but to cut off all intercourse between neutrals and an enemy, to declare that any single article which may have come from the possessions of an enemy, whoever may be its owner, shall of itself be sufficient to condemn both vessel and cargo, is to exercise a controul over the conduct of neutrals which war can never give, and which is alike incompatible with their dignity and their welfare.

The rights of belligerents are the same. If this might be exercised by one, so might it be exercised by every other. If it might be exercised in the present, so it might be exercised in every future war. This decree is, therefore, on the part of France, the practical assertion of a principle which would destroy all direct or circuitous commerce between belligerent and neutral powers, which would often interrupt the business of a large portion of the world, and withdraw or change the employment of a very considerable portion of the human race.

This is not all. It is the exercise of a power which war is not admitted to give, and which, therefore, may be assumed in peace as well as war.

It essentially affects the internal œconomy of nations, and deranges that course of industry which they have a right to pursue, and on which their prosperity depends.

To acquiesce, therefore, in the existing state of things, under a principle so extensive and so pernicious, is to establish a precedent for national degradation which can never cease to apply, and which will authorize any measures which power may be disposed to practise.

France, therefore, will perceive that neutral governments, whatever may be their dispositions towards this Republic, are impelled by duties of the highest obligation, to remonstrate against a decree, which at the same time invades their interests and their independence, which takes from them the profits of an honest and lawful industry, as well as the inestimable privilege of conducting their own affairs as their own judgments may direct.

It is hoped, that the remonstrances of the United States on this subject will derive additional force from their subsisting engagements with France, and from a situation peculiar to themselves.

The twenty-third article of the Treaty of Amity and Commerce of the 6th of February, 1778, is in these words: " It shall be lawful for all and singular the subjects of the Most Christian King, and the citizens, people and inhabitants of the said United States, to sail with their ships, with all manner of liberty and security, no distinction being made who are the proprietors of the merchandizes laden thereon, from any port to the places of those who now are, or hereafter shall be at enmity with the Most Christian King, or the United States. It shall likewise be lawful for the subjects and inhabitants aforesaid, to sail with the ships and merchandizes afore-mentioned, and to trade with the same liberty and security from the places, ports, and havens, of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy before-mentioned to neu-

tral places, but also from one place belonging to an enemy, to another place belonging to an enemy, whether they be under the jurisdiction of the same Prince or under several. And it is hereby stipulated, that free ships shall also give a freedom to goods, and that every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemies of either; contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that although they be enemies to both or either party, they are not to be taken out of that free ship, unless they are soldiers, and in actual service of the enemy."

The two nations contemplating and providing for the case when one may be at war, and the other at peace, solemnly stipulate and pledge themselves to each other, that in such an event the subjects or citizens of the party at peace may freely trade with the enemy of the other, may freely sail with their ships in all manner of security, to and from any port or place belonging to such enemy. Not only goods coming from the hostile territory, but the very goods of the enemy himself may be carried with safety in the vessels of either of the contracting parties.

You will perceive, Citizen Minister, without requiring the undersigned to execute the painful task of drawing the contrast, how openly and entirely the Decree of the Councils opposes itself to the Treaty between France and the United States.

In addition to the hitherto unceded rights of a sovereign and independent nation, in addition to the right stipulated by compact, the undersigned will respectfully submit other considerations growing out of the peculiar situation of the United States, manifesting the particular hardships the decree complained of must impose on them.

In possession of a rich, extensive, and unsettled country, the labour of the United States is not yet sufficient for the full cultivation of its soil, and consequently but a very small portion of it can have been applied to manufactures. Articles of the first necessity and comfort are imported in exchange for provisions and for the raw materials which are the growth of the country, and which its inhabitants are accustomed to raise.

It is at any time extremely difficult, nor is it practicable without great loss, to change suddenly the habits of a whole people, and that course of industry in which their population and their real interests have engaged them. An agricultural cannot suddenly, and at will, become a manufacturing people; the United States cannot instantaneously, on the mere passing of a decree, transfer, to the manufacture of articles heretofore imported, such a portion of their labour as will at the same time furnish a market for the surplus commodities, and a supply for the wants of the cultivator of the soil. It is, therefore, scarcely possible for them to surrender their foreign commerce.

Independent of the right they possess in common with others to search for and chuse the best markets, it is believed that the supplies they need could with difficulty, in the actual state of the world, be completely furnished, without the aid of England and its possessions. It is not pretended that France manufactures at present, for foreign consumption, nor do the undersigned suppose that there exists a market where the citizens of the United States can obtain in exchange the articles they need and are accustomed to consume, if those coming out of England and its possessions be entirely excluded. A variety of other considerations, and especially the difficulties individuals must encounter in suddenly breaking old and forming new connexions, in forcing all their commerce into channels not yet well explored, in trading without a sufficient capital to countries where they have no credit, combine to render almost impossible an immediate dissolution of commercial intercourse between the United States and Great-Britain.

If then the decree complained of shall be executed on american vessels, it can only increase grievances already but too considerable, and transfer the carriage of english manufactures, for american consumption, from their own to british bottoms, sailing under the protection of a convoy. Instead of wounding England, it will probably aggrandize its marine, by sacrificing the remnant of that of the United States, and by destroying that system of policy by which they have heretofore sought to give their own vessels that portion of their own carrying trade, which would otherwise be enjoyed by british merchants.

You have made some general animadversions on the Government of the United States, which the undersigned feel themselves bound briefly to notice.

You have charged that government with giving instructions not in the sincere intention of arriving at pacific results, and yet the undersigned have offered to change those clauses in the treaty of 1778, which have become inconvenient to France, and to repair any injuries which may have been committed.

You have charged that government with omitting nothing to prolong and augment the misunderstanding between the two Republics ; but does not the fact, that the undersigned are now in Paris, furnish persuasive evidence to the contrary ?

You have charged it with searching to justify, by deceitful appearances, the prejudices with which it surrounds at pleasure the name of the Republic, and the system of exasperation and separation pursued in this respect with the strangest obstinacy. But has not this Republic, in terms the most cordial, been again and again intreated to enter into a candid investigation of the mutual complaints of the two nations ? Have not these entreaties been unnoticed, whilst the ministers deputed to make them have remained unaccredited ?

You have charged it with wishing to seize the first favourable occasion for consummating an intimate union with a power, towards which a devotion and a partial-

lity are professed which have long constituted the principle of the conduct of the Federal Government ; but whilst no devotion or partiality has been expressed for any nation except France, have not the United States made, and are they not still making the most extraordinary efforts to restore the broken relations between the two Republics ?

In a letter discussing the important interests of two great nations, the undersigned are unwilling to introduce what relates personally to themselves.

This unwished for task has been rendered a duty, by ascribing to them opinions and relations which exist in imagination only, and by adducing those supposed opinions and relations as proofs of an indisposition, on the part of the government which has deputed them, towards that accommodation which has been sought so unremittingly through all those difficulties and impediments with which the pursuit has been embarrassed.

You are pleased to add, that these intentions are so little disguised, " that nothing seems to have been neglected at Philadelphia, to manifest them to every eye. It is probably with this view that it has been judged proper to send to the French Republic, persons whose opinions and relations are too well known to hope from them dispositions sincerely conciliatory."

The opinions and relations of the undersigned are purely american, unmixed with any particle of foreign tint. If they possess a quality on which they pride themselves, it is an attachment to the happiness and welfare of their country ; if they could at will select the means of manifesting that attachment, it would be by effecting a sincere and real accommodation between France and the United States, on principles promoting the interests of both, and consistent with the independence of the latter.

It requires no assurance to convince, that every real American must wish sincerely to extricate his country from the ills it suffers, and from the greater ills with which it is threatened ; but all who love liberty, must

admit that it does not exist in a nation which cannot exercise the right of maintaining its neutrality. If "opinions and relations," such as these, are incompatible with "dispositions sincerely conciliatory," then indeed has the Federal Government chosen unfit instruments for the expression of its pacific disposition.

You contrast the conduct observed by the United States, under analagous circumstances, towards the Cabinet of St. James, with that which is observed towards this Republic. You say, that on that occasion, there was a solicitude to send to London, ministers well known to possess sentiments conformable to the objects of their mission; that the Republic has a right to count upon a similar deference; and that if a like attention has not been observed with respect to it, it is too probable that it must be attributed to the views already indicated.

If, unfortunately, the cases shall exhibit a contrast, it is not to be found in the characters the United States have thought proper to employ, or in the conduct of their government, otherwise than by the superior attention manifested towards this Republic, and never shewn to any other nation, in deputing to it, with ample powers, three Envoys Extraordinary, and Ministers Plenipotentiary from the three great divisions of the United States. The Ministers sent to the Cabinet of St. James greatly deserved the confidence of their country; but they did not possess sentiments more conformable to the objects of their mission than those deputed to this Republic. They did not wish more ardently to effect reconciliation; nor is it believed that any persons who could have been deputed to that Cabinet, would have submitted to greater sacrifices in order to obtain it. Had their application for compensation for past injuries, and security against their future commission, been only met by requisitions, a compliance with which would involve their nation in ills of which war perhaps might not be the most considerable; had all attempts to remove unfavourable impressions failed, and all offers to make explanations been rejected; can it be believed,

that other ministers (the first having been ordered out of the nation) would have waited six months unaccredited, soliciting permission to display the upright principles on which their government had acted, and the amicable sentiments by which it was animated ?

The undersigned are induced, Citizen Minister, to pray your attention to these plain truths, from a conviction that they manifest unequivocally the friendly temper of the Federal Government, and the extreme reluctance with which the hope of an accommodation with France would be relinquished.

The undersigned observe, with infinite regret, that the disposition manifested to treat with the minister who might be selected by this government, is not accompanied with any assurances of receding from those demands of money, heretofore made the considerations on which alone a cessation of hostility on american commerce could be obtained, to which the undersigned have not the power to accede, with which the United States would find it extremely difficult to comply, and a compliance with which would violate that faith pledged for the observance of neutrality, and would involve them in a disastrous war with which they have no concern. Nor do you answer to the applications, which have been made for compensation to the citizens of the United States for property which shall be proved to have been taken contrary to the law of nations and existing treaties, otherwise than that you are willing to discuss cases where there has been a departure from certain principles, which principles, in fact, involve almost every case.

You have signified, Citizen Minister, that the Executive Directory is disposed to treat with one of the Envoys, and you hope that this overture will not be attended, on the part of the undersigned, with any serious difficulty. Every proposition of the Executive Directory is considered with the most minute and respectful attention.

The result of a deliberation on this point is, that no one of the undersigned is authorised to take upon himself a negotiation evidently entrusted by the tenour of

their powers and instructions to the whole : nor are there any two of them who can propose to withdraw themselves from the task committed to them by their government, while there remains a possibility of performing it.

It is hoped that the prejudices said to have been conceived against the ministers of the United States, will be dissipated by the truths they have stated.

If in this hope they shall be disappointed, and it should be the will of the Directory to order passports for the whole or any number of them, you will please to accompany such passports with letters of safe conduct, which will entirely protect from cruizers of France, the vessels in which they may respectively sail, and give to their persons, suite and property, that perfect security to which the laws and usages of nations entitle them.

They pray you, Citizen Minister, to receive the renewal of their assurances of profound respect and consideration.

(Signed) CHARLES COTESWORTH PINCKNEY.
JOHN MARSHALL,
E. GERRY.

A true copy.

HENRY M. RUTLEDGE, Secretary.

Message du Président des Etats-Unis, adressé au Congrès en Date du 21 Juin, 1798, pour lui annoncer, que le Général Marshall est de retour en Amérique, et que M. Gerry est resté en France, pour voir ce qu'il pourra effectuer encore ; Communication est donnée en même-temps au Congrès des nouvelles Instructions qui ont été adressées à ce Ministre, pour qu'il ne consente à aucun Emprunt. Le Président termine le Message par la Déclaration, qu'il n'enverra pas d'autre Ministre en France, à moins d'être sûr, qu'il sera reçu, considéré et honoré comme le Représentant d'une Nation grande, libre, puissante et indépendante. Avec Pièces a. b. c. d.

Message from the President to Congress.

Gentlemen of the Senate, and
Gentlemen of the House of Representatives,

While I congratulate you, on the arrival of General Marshall, one of our late Envoys Extraordinary to the French Republic, at a place of safety, where he is justly held in honor, I think it my duty to communicate to you, a letter received by him, from Mr. Gerry, the only one of the three, who has not received his congé : this letter, together with another, from the Minister of Foreign Relations to him, of the third of April, and his answer of the fourth, will shew the situation in which he remains, his intentions, and prospects.

I presume, that before this time, he has received fresh instructions (a copy of which accompanies this message) to consent to no loans, and therefore the negotiation may be considered at an end.

I will never send another minister to France, without assurances, that he will be received, respected, and honoured, as the representative of a great, free, powerful, and independent nation.

JOHN ADAMS.

United States,
June 21st, 1798.

PIÈCE A.

Lettre de M. Gerry, adressée au Président des Etats-Unis, le 16 Avril, 1798, pour le prévenir du Départ du Général Marshall, et de la Résolution qu'avait prise M. Gerry de se rendre au Vœu du Directoire, qui ne voulait pas consentir à son Départ. Le Ministre adresse en même-temps au Président la Lettre (b) qu'il avait reçue de M. de Talleyrand, avec la Réponse (c) qu'il y avait faite ; et demande que le Président veuille nommer à la Place de ses Collègues et à la sienne d'autres Ministres pour le Cas que l'on jugeât que la Négociation pourrait être continuée encore.

Paris, 16th April, 1798.

My Dear Sir,

This I expect you will receive by my colleague, General Marshall, who carries with him the last letter of Mr. Talleyrand to the American Envoys, and their answer. On the day when we sent the answer, I received a letter from the minister, a copy of which and my answer is inclosed. I have not sent these to the Secretary of State, because I have not time to prepare a letter to accompany them. Indeed I expected my passport with my colleagues ; but am informed, the Directory will not consent to my leaving France : and to bring on an immediate rupture, by adopting this measure contrary to their wishes, would be in my mind unwarrantable. The object of Mr. Talleyrand, you will perceive, was to *resume* our reciprocal communications, and again to discuss the subject of a loan. I thought it best in my answer not merely to object to this, but to every measure that could have a tendency to draw me into a negotiation. I accepted of this mission, my dear Sir, to support your administration, and have brought myself into a predicament*, which you must assist me to extricate myself from, by appointing some others to supply the places of myself and colleagues, if a further progress in this business should be found practicable. I have only a moment to add my best respects to your lady, and my assurances of the most sincere and respectful attachment, my dear Sir, of your's sincerely,

E. GERRY.

The President of the United States.

PIÈCE B.

Lettre de M. de Talleyrand à M. Gerry, en Date du 3 Avril, 1798, pour inviter le Ministre Américain, après le Départ de ses Collègues, à reprendre les Communications réciproques sur les Intérêts de la République Française et des Etats-Unis d'Amerique.

* I allude to my painful residence here as a political cypher.

Paris, le 14 Germinal, an 6 de la République Française, une et indivisible.

Le Ministre des Relations Extérieures, à Monsieur Gerry, Envoyé Extraordinaire des Etats-Unis d'Amérique près de la République Française.

Je suppose, Monsieur, que M. M. Pinckney et Marshall ont jugé utile et convenable d'après les indications que présente la fin de ma note du 28 Ventôse dernier, et l'obstacle que leurs opinions connues ont apporté au rapprochement désiré,—de quitter le territoire de la République : dans cette supposition, j'ai l'honneur de vous indiquer le 5 ou le 7 de cette décade, pour reprendre nos communications réciproques sur les intérêts de la République Française et des Etats-Unis d'Amérique.

Recevez, je vous prie, les assurances de ma parfaite considération.

CH. MAU. TALLEYRAND.

PIÈCE C.

Réponse de M. Gerry à la Lettre de M. de Talleyrand, en Date du 4 Avril, 1798. M. Gerry ayant toujours agi de Concert avec ses Collègues, Messrs Pinckney et Marshall, contre lesquels il croit qu'on avait conçu des Préventions mal-fondées, décline d'entreprendre un Rôle qui puisse leur être désagréable ; il prétend qu'on aurait dû leur épargner l'Avis qu'ils ont-reçu de quitter la France, puisque leur dernière Lettre au Ministre des Relations Extérieures renfermait la Demande conditionnelle de Passeports ; il ajoute, que M. Marshall n'attend, pour partir, que le Sauf-Conduit qu'il a demandé pour le Bâtiment qui doit le conduire, soit en Amérique, soit en Angleterre ; mais que M. Pinckney ne saurait partir, dans ce Moment, à Cause de l'Etat de Santé de sa fille. M. Gerry déclare, qu'il n'est pas autorisé à traiter séparément, que par conséquent il ne pourra entrer en Pourparlers avec le Ministre de France sur les Objets de la Mission des trois Envoyés que d'une manière non-officielle et particulière, et en référer au Gouvernement des Etats-Unis.

Paris, 4th April, 1798, (Germinal 15, an 6.)

I had the honor, Citizen Minister, of receiving your letter of the 14th Germinal (the 3d instant,) and Mr. Deutrement who delivered it, informed me, that it was intended to be shewn to General Pinckney and General Marshall.

Whilst my colleagues and myself, to whom the Government of the United States have entrusted the affairs of the embassy, had a joint agency therein, I have carefully imparted to them all the propositions which you have requested, and the relative conferences ; and to yourself our decisions thereon ; regretting at the same time the unfortunate and embarrassing circumstances which imposed on me this disagreeable task. But as by the tenour of your letter it is now expected, that they will quit the territory of the French Republic, it will be impossible for me to be the medium of, or to take any measures, which will be painful to my colleagues, or not to afford them all the assistance in my power ; and it would be moreover inconsistent with the line of conduct which you well know, Citizen Minister, I have uniformly observed for removing the unfavourable impressions which existed on the part of this government against them : indeed in our last letter there is a conditional application for passports, which, as it appears to me, supersedes the necessity of a hint to them, on this subject ; and General Marshall is waiting impatiently for an answer to that part of it which respects a letter of safe-conduct for the vessel, in which he and his suite may take passage for the United States, to determine whether he shall embark from France or Great Britain ; but the unfortunate situation of General Pinckney, with respect to the critical state of his daughter's health, renders it utterly impossible for him to depart under existing circumstances.

You have proposed, Citizen Minister, the 5th or 7th of this decade for me to resume (reprendre) our reciprocal communications upon the interests of the French

Republic and of the United States. The reciprocal communications, which we have had, were such only as I have alluded to in the beginning of this letter, unless your proposition accompanied with an injunction of secrecy, for me to treat separately, is considered in this light. To resume this subject will be unavailing, because the measure, for the reasons which I then urged, is utterly impracticable. I can only then confer informally and unaccredited on any subject respecting our mission, and communicate to the Government of the United States the result of such conferences, being in my individual capacity unauthorized to give them an official stamp. Nevertheless every measure in my power, and in conformity with the duty I owe my country, shall be zealously pursued, to restore harmony and a cordial friendship between the two Republics. I had the honor of calling on you last evening, for the purpose of making this communication verbally, but as you were absent, to prevent misconceptions I have thought it best to reduce it to writing.

Accept, I pray you, Citizen Minister, the assurances of my perfect esteem and respect.

(Signed)

E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

PIÈCE D.

Instructions additionnelles, adressées aux Ministres Plénipotentiaires des Etats-Unis à Paris, en Date du 23 Mars, 1798. Elles portent que, les Ministres d'Amérique n'ayant pas été reçus en France, comme ils auraient pu attendre de l'être en Qualité de Représentans d'un Peuple indépendant, et n'ayant pas rencontré dans le Gouvernement de France un desir analogue à celui des Etats-Unis de terminer à l'amiable et sans délai les différends qui divisent les deux Nations, et vû que l'Incertitude qui en résulte était ruineuse pour les Intérêts de l'Amérique ; ils sont chargés, 1) de continuer et de ter-

miner la Négociation, si elle avait été entamée avec des Personnes dûment autorisées pour cet Effet ; mais de la rompre et de demander leurs Passeports et retourner en Amérique, aussitôt qu'ils s'apercevraient de l'Intention non-équivoque de trainer en Longueur la Négociation ; 2) de demander leurs Passeports et retourner en Amérique, si, à la Réception de ces Instructions, ils n'ont pas été reçus, ou qu'ils ne fussent pas en Négociation avec des Personnes dûment autorisées par le Directoire ; 3) de ne faire en aucun Cas un Traité, qui renfermerait une Stipulation d'Emprunt, ou un Engagement de Gratification pécuniaire.

To Charles Cotesworth Pinckney, John Marshall and Elbridge Gerry, Esquires, Envoys Extraordinary and Ministers plenipotentiary from the United States of America to the French Republic.

GENTLEMEN,

On the 4th instant came to hand your first dispatches since you arrived at Paris ; these were your numbers 1, 4, and 5 ; and on the 6th instant your numbers 2 and 3 were received. On the 5th, your number 5, dated the 8th of January, and a translation of the message of January 4th from the Directory to the Council of Five Hundred, were laid before Congress. In this letter you repeat, "that there exists no hope of your being officially received by that government, or that the objects of your mission will be in any way accomplished." This opinion is sanctioned by the whole tenour of your communications ; and we trust that soon after the date of your number 5, you closed your mission by demanding passports to leave the territories of the French Republic.

An official copy of your letters of credence having been delivered to the Mintster for Foreign Affairs, and by him laid before the Directory, they were sufficiently informed of the great objects of your mission ; and considering that you were an extraordinary delegation from an independent nation, you had a right to expect

a prompt and respectful reception. The fair and honourable views of the American Government, which dictated your appointment and your powers, entitled you to expect the early appointment of a commission by the French Government, with equal powers to negotiate on all the matters in controversy between them. Had the French Government been influenced by similar views, the objects of your mission would long since have been accomplished, to the advantage and peace of both nations. But instead of coming forward on such equal and proper ground, they have treated you, and through you your country, with extreme neglect.

Under these circumstances, the President presumes that you have long since quitted Paris and the French dominions ; yet, actuated as you were with ardent desire to preserve peace, which you knew would be so grateful to your country ; and having for this object manifested unexampled patience, and submitted to a series of mortifications ; as you also proposed to make one more direct attempt subsequent to the date of the last letter, to draw the French Government to an open negotiation ; there is a bare possibility that this last effort may have succeeded :—The President therefore thinks it proper to direct—

1. That if you are in treaty, with persons duly authorized by the Directory on the subjects of your mission, then you are to remain and expedite the completion of the treaty, if it should not have been concluded. Before this letter gets to hand, you will have ascertained whether the negotiation is or is not conducted with candour on the part of the French Government : and if you shall have discovered a clear design to procrastinate, you are to break off the negotiation, demand your passports, and return. For you will consider that *suspense* is ruinous to the essential interests of your country.

2. That if on the receipt of this letter, you shall not have been received, or, whether received or not, if you shall not be in treaty with persons duly authorized by

the Directory, with full and equal powers, you are to demand your passports and return.

3. In no event is a treaty to be purchased with money, by loan or otherwise. There can be no safety in a treaty so obtained. A loan to the Republic would violate our neutrality : and a *douceur* to the men now in power, might by their successors be urged as a reason for annulling the treaty, or as a precedent for further and repeated demands.

It is proper to apprise you, that a motion has been made in the Senate, and will doubtless be repeated in the House of Representatives, to desire the President to lay before them your communications ; and he will probably be under the necessity of doing it : only withholding the two names which you promised should in no event be made public.

I have the honor to be,
with great respect,
Gentlemen,
your obedient servant,

TIMOTHY PICKERING.

Department of State, Philadelphia,
March 23d, 1798.

G.

CORRESPONDANCE ET NÉGOCIATION DE
M. GERRY, DURANT SON SÉJOUR A PARIS,
EN 1798, APRÈS LE DÉPART DE MESSRS
PINCKNEY ET MARSHALL.

DISCOURS DU PRÉSIDENT des *Etats-Unis*, adressé au
Congrès, le 8 Décembre, 1798. Le Président annonce
la Rupture de la Négociation avec la France ; il déclare
qu'il est d'Opinion que l'Amérique ne peut, sans com-
mettre un Acte d'Humiliation, envoyer à Paris un nou-
veau Ministre, à moins qu'elle ne soit assurée qu'il sera
reçu du Gouvernement Français ; il recommande en Con-
séquence d'adopter des Mesures de Défense vigoureuses. etc.

*Speech of the President of the United States to both
Houses of Congress.—Delivered the eighth of Decem-
ber, 1798.—Committed to a Committee of the whole
House on Monday next.—Published by Order of the
House of Representatives.—Philadelphia.*

Gentlemen of the Senate, and
Gentlemen of the House of Representatives,

While with reverence and resignation we contem-
plate the dispensations of Divine Providence, in the
alarming and destructive pestilence with which several
of our cities and towns have been visited, there is cause
for gratitude and mutual congratulations, that the
malady has disappeared, and that we are again permitted
to assemble in safety, at the seat of government, for
the discharge of our important duties. But when we

reflect that this fatal disorder has, within a few years, made repeated ravages in some of our principal sea ports, and with increased malignancy; and when we consider the magnitude of the evils, arising from the interruption of public and private business, whereby the national interests are deeply affected; I think it my duty to invite the Legislature of the Union to examine the expediency of establishing suitable regulations in aid of the Health Laws of the respective States; for these being formed on the idea, that contagious sickness may be communicated through the channels of commerce, there seems to be a necessity that Congress, who alone can regulate trade, should frame a system, which, while it may tend to preserve the general health, may be compatible with the interests of commerce, and the safety of the revenue.

While we think on this calamity, and sympathize with the immediate sufferers, we have abundant reason to present to the Supreme Being, our annual oblations of gratitude, for a liberal participation in the ordinary blessings of his Providence. To the usual subjects of gratitude, I cannot omit to add one of the first importance to our well-being and safety: I mean that spirit which has arisen in our country against the menaces and aggression of a foreign nation. A manly sense of national honor, dignity, and independence, has appeared, which if encouraged and invigorated by every branch of the Government, will enable us to view undismayed the enterprizes of any foreign power, and become the sure foundation of national prosperity and glory. The course of the transactions in relation to the United States and France, which have come to my knowledge during your recess, will be made the subject of a future communication. That communication will confirm the ultimate failure of the measures which have been taken by the Government of the United States towards an amicable adjustment of differences with that power. You will at the same time perceive, that the French Government appears solicitous to im-

press the opinion, that it is averse to a rupture with this country, and that it has, in a qualified manner, declared itself willing to receive a Minister from the United States, for the purpose of restoring a good understanding. It is unfortunate for professions of this kind, that they should be expressed in terms which may countenance the inadmissible pretension of a right to prescribe the qualifications which a Minister from the United States should possess ; and that, while France is asserting the existence of a disposition on her part to conciliate, with sincerity, the differences which have arisen, the sincerity of a like disposition on the part of the United States, of which so many demonstrative proofs have been given, should even be indirectly questioned. It is also worthy of observation, that the decree of the Directory, alleged to be intended to restrain the depredations of french cruizers on our commerce, has not given, and cannot give, any relief ; it enjoins them to conform to all the laws of France relative to cruizing and prizes ; while these laws are themselves the sources of the depredations of which we have so long, so justly, and so fruitlessly complained.

The law of France, enacted in January last, which subjects to capture and condemnation neutral vessels and their cargoes, if any portion of the latter are of british fabric or produce, although the entire property belong to neutrals, instead of being rescinded, has lately received a confirmation, by the failure of a proposition for its repeal. While this law, which is an unequivocal act of war on the commerce of the nations it attacks, continues in force, those nations can see in the French Government only a power regardless of their essential rights, of their independence and sovereignty ; and if they possess the means, they can reconcile nothing with their interest and honor, but a firm resistance.

Hitherto, therefore, nothing is discoverable in the conduct of France, which ought to change or relax our

measures of defence; on the contrary, to extend and invigorate them is our true policy. We have no reason to regret, that these measures have been thus far adopted and pursued: and in proportion as we enlarge our view of the portentous and incalculable situation of Europe, we shall discover new and cogent motives for the full developement of our energies and resources.

But, in demonstrating by our conduct that we do not fear war, in the necessary protection of our rights and honor, we shall give no room to infer, that we abandon the desire of peace. An efficient preparation for war can alone ensure peace. It is peace that we have uniformly and perseveringly cultivated; and harmony between us and France may be restored at her option. But to send another minister, without more determinate assurances that he would be received, would be an act of humiliation to which the United States ought not to submit. It must, therefore, be left with France, if she is indeed desirous of accommodation, to take the requisite steps. The United States will steadily observe the maxims by which they have hitherto been governed. They will respect the sacred rights of embassy. And with a sincere disposition on the part of France, to desist from hostility, to make reparation for the injuries heretofore inflicted on our commerce, and to do justice in future, there will be no obstacle to the restoration of a friendly intercourse. In making to you this declaration, I give a pledge to France, and to the world, that the executive authority of this country still adheres to the humane and pacific policy, which has invariably governed its proceedings, in conformity with the wishes of the other branches of the Government, and of the people of the United States. But considering the late manifestations of her policy towards foreign nations, I deem it a duty deliberately and solemnly to declare my opinion, that whether we negotiate with her or not, vigorous preparations for war will be alike indispensable. These alone will give to us an equal treaty, and ensure its observance.

Among the measures of preparation which appear expedient, I take the liberty to recall your attention to the naval establishment. The beneficial effects of the small naval armament provided under the acts of the last session, are known and acknowledged. Perhaps no country ever experienced more sudden and remarkable advantages from any measure of policy than we have derived from the arming for our maritime protection and defence. We ought, without loss of time, to lay the foundation for an increase of our navy to a size sufficient to guard our coast and protect our trade. Such a naval force, as it is doubtless in the power of the United States to create and maintain, would also afford to them the best means of general defence, by facilitating the safe transportation of troops and stores to every part of our extensive coast. To accomplish this important object, a prudent foresight requires, that systematical measures be adopted for procuring, at all times, the requisite timber and other supplies. In what manner this shall be done, I leave to your consideration.

I will now advert, Gentlemen, to some matters of less moment, but proper to be communicated to the national legislature.

After the Spanish garrisons had evacuated the posts they occupied at the Natchez and Walnut-hills, the Commissioner of the United States commenced his observations to ascertain the point near the Mississippi, which terminated the northernmost part of the thirty-first degree of north latitude. From thence he proceeded to run the boundary line between the United States and Spain. He was afterwards joined by the Spanish Commissioner, when the work of the former was confirmed; and they proceeded together to the demarkation of the line. Recent information renders it probable, that the Southern Indians, either instigated to oppose the demarkation, or jealous of the consequences of suffering white people to run a line over lands to which the indian title had not been extinguished, have, ere this time, stopped the progress of the commissioners.

And considering the mischiefs which may result from continuing the demarkation, in opposition to the will of the Indian tribes, the great expence attending it, and that the boundaries which the commissioners have actually established, probably extend at least as far as the Indian title has been extinguished, it will perhaps become expedient and necessary to suspend further proceedings by recalling our commissioner.

The commissioners appointed in pursuance of the fifth article of the treaty of amity, commerce, and navigation, between the United States and His Britannic Majesty, to determine what river was truly intended under the name of the river St. Croix, mentioned in the treaty of peace, and forming a part of the boundary therein described, have finally decided that question. On the twenty-fifth of October, they made their declaration, that a river called Scoodiac, which falls into Passamaquoddy bay, at its north western quarter, was the true St. Croix intended in the treaty of peace, as far as its great fork, where one of its streams comes from the westward, and the other from the northward; and that the latter stream is the continuation of the St. Croix to its source. This decision, it is understood, will preclude all contention among individual claimants; as it seems, that the Scoodiac, and its northern branch, bound the grants of lands which have been made by the respective adjoining governments. A subordinate question, however, it has been suggested, still remains to be determined. Between the mouth of the St. Croix, as now settled, and what is usually called the Bay of Fundy, lie a number of valuable islands. The Commissioners have not continued the boundary line, through any channel of these islands; and unless the Bay of Passamaquoddy be a part of the Bay of Fundy, this further adjustment of boundary will be necessary. But it is apprehended, that this will not be a matter of any difficulty.

Such progress has been made in the examination and decision of cases of captures and condemnations of

american vessels, which were the subject of the seventh article of the treaty of amity, commerce, and navigation, between the United States and Great Britain, that it is supposed, the commissioners will be able to bring their business to a conclusion in August of the ensuing year.

The commissioners acting under the twenty-first article of the treaty, between the United States and Spain, have adjusted most of the claims of our citizens for losses sustained in consequence of their vessels and cargoes having been taken by the subjects of His Catholic Majesty, during the late war between France and Spain.

Various circumstances have concurred to delay the execution at the law for augmenting the military establishment. Among these, the desire of obtaining the fullest information to direct the best selection of officers. As this object will now be speedily accomplished, it is expected, that the raising and organizing of the troops will proceed without obstacle, and with effect.

Gentlemen of the House of Representatives,

I have directed an estimate of the appropriations which will be necessary for the service of the ensuing year, to be laid before you, accompanied with a view of the public receipts and expenditures to a recent period. It will afford you satisfaction to infer the great extent and solidity of the public resources, from the prosperous state of the finances, notwithstanding the unexampled embarrassments which have attended commerce. When you reflect upon the conspicuous examples of patriotism and liberality which have been exhibited by our mercantile fellow-citizens, and how great a proportion of the public resources depends on their enterprize, you will naturally consider, whether their convenience cannot be promoted and reconciled with the security of the revenue, by a revision of the system, by which the revenue is at present regulated.

During your recess, measures have been steadily pur-

sued for effecting the valuations and returns directed by the act of the last session, preliminary to the assessment and collection of a direct tax. No other delays or obstacles have been experienced, except such as were expected to arise from the great extent of our country, and the magnitude and novelty of the operation, and enough has been accomplished to assure a fulfilment of the views of the legislature.

Gentlemen of the Senate, and

Gentlemen of the House of Representatives,

I cannot close this address, without once more advertising to our political situation, and inculcating the essential importance of uniting in the maintenance of our dearest interests; and I trust that by the temper and wisdom of your proceedings, and by a harmony of measures, we shall secure to our country that weight and respect to which it is so justly entitled.

JOHN ADAMS.

United States,

Dec. 8, 1798.

Message du Président des Etats-Unis, adressé au Congrès le 18 Janvier, 1799, pour donner Communication à cette Assemblée des pièces officielles, relatives à la Négociation de M. Gerry à Paris en 1798.

Message from the President of the United States, accompanying sundry Papers relative to the Affairs of the United States, with the French Republic.—18th January, 1799.—Published by order of the House of Representatives.

Gentlemen of the Senate, and

Gentlemen of the House of Representatives.

The communication relative to our affairs with France, alluded to in my address to both houses, at the opening of the session, is contained in the sheets which accom-

pany this. A report of the secretary of state, containing some observations on them, will be sent to congress on Monday.

JOHN ADAMS.

January 18, 1799.

Lettre officielle de M. Pickering, Secrétaire d'Etat des Etats-Unis, adressée à M. Gerry, en Date du 25 Juin, 1798, pour lui signifier que, les Instructions additionnelles du 23 Mars, 1798, n'étant proprement que des Lettres de Rappel, le Gouvernement Fédéral s'était attendu qu'il eût quitté la France en même-temps que ses Collègues, Messrs. Pinckney et Marshall, et que par conséquent, dans le Cas que lesdites Instructions du 23 Mars ne lui fussent pas parvenues, il devait regarder la Présente comme une Lettre de Rappel, et retourner en Amérique incessamment.

Letter from the Secretary of State, to Mr. Gerry, dated June 25, 1798.

Department of State, Philadelphia, June 25th 1798.

Sir,

By the instructions dated the 23d of March, which, agreeably to the President's directions, I addressed to Generals Pinckney and Marshall and yourself, and of which six sets were transmitted, one by a dispatch boat sent on purpose, and some of which doubtless reached you during the last month you will have seen that it was expected that all of you would have left France long before those instructions could arrive, and which were transmitted rather from abundant caution than necessity, seeing no probability or hope existed that you would accomplish the object of your mission. The respect due to yourselves and your country irresistibly required that you should turn your backs to a government that treated both with contempt ; a contempt not diminished, but aggravated by the flattering but insidious distinction in your favour, in disparagement of men of such respectable talents, untainted honor and pure patriotism, as Generals Pinck-

ney and Marshall, and in whom their government and their country reposed entire confidence ; and especially when the real object of that distinction was to enable the French Government, trampling on the authority and dignity of our own, to designate an Envoy with whom they would condescend to negotiate. It is therefore to be regretted that you did not concur with your colleagues in demanding passports to quit the territories of the French Republic, some time before they left Paris.

General Marshall has arrived and delivered to the President your letter of April 16th, with its inclosures ; all which were on the 21st instant laid before congress, accompanied by a message in which the President declares the negotiation at an end, and that "he will never send another Minister to France without assurances that he will be received, respected, and honoured as the representative of a great, free, powerful and independent nation."

It is presumed that you will consider the instructions of the 23d of March, before-mentioned, as an effectual recal ; lest however, by any possibility, those instructions should not have reached you, and you should still be in France, I am directed by the President to transmit to you this letter, and to inform you, that you are to consider it as a positive letter of recal.

I am respectfully, sir, your obedient servant,

(Signed) TIMOTHY PICKERING.

Elbridge Gerry, Esq.

DEPECHES ET CORRESPONDANCE DE M. GERRY.

Mr. Gerry's Communications.

Dépêche de M. Gerry, en Date du 1 Octobre, 1798, adressée au Secrétaire d'Etat des Etats-Unis, immédiatement après son Arrivée en Amérique. M. Gerry

transmet au Gouvernement Américain avec cette Dépêche les différentes Pièces (No. 1.—35.) de sa Correspondance avec celui de France, depuis le Départ de ses Collègues ; il en donne une courte Analyse, et rend Compte de sa Conduite à Paris depuis cette Epoque. M. Gerry cherche à se justifier au Sujet du parti qu'il avait pris de rester à Paris après le Départ de Messrs Pinckney et Marshall ; il trouve les Motifs de cette Détermination dans les Vœux du Peuple Américain pour l'Accommodement des différends avec la France, dans les Intentions analogues du Gouvernement Fédéral, dans les Intérêts publics et commerciaux de l'Amérique et dans la Situation d'alors des Affaires de la France, tant par Rapport à la Grande-Bretagne que relativement à l'Etat des partis dans l'Intérieur de la République Française. M. Gerry avoue qu'il ne pensait pas avoir les Pouvoirs nécessaires pour négocier et conclure à lui seul un Traité avec la France ; cependant les Dispositions pacifiques du Gouvernement Fédéral, et celles qu'il croyait reconnaître dans le Gouvernement Français, le déterminèrent à rester encore quelque Temps en France, non-obstant les Instructions du 23 Mars qui lui étaient parvenues le 12 Mai par le Bâtiment, la Sophie. Aussi le Gouvernement Français fait-il à M. Gerry des Propositions plus conciliantes ; il n'exige pas la Rupture du Traité de Londres, il se contenterait d'être traité sur le même Pied que la Grande-Bretagne. Quant aux Réclamations des Citoyens d'Amérique à la Charge de la France, M. Gerry déclare à M. de Talleyrand que, dans aucun Cas, le Gouvernement Fédéral ne pourra avancer les Sommes nécessaires pour cet Objet, comme le demande la France. Mais le Ministre Américain se montre plus facile par Rapport à la Convention Consulaire. De l'autre Côté, M. de Talleyrand ne fait plus Mention de l'Emprunt à fournir à la France par les Etats-Unis, aussi n'est-il plus Question du Désaveu à donner à de certains Passages du Discours du Président. M. de Talleyrand accède même à la Proposition de M. Gerry d'envoyer un Ministre de France aux Etats-Unis. On est à discuter sur le meilleur Mode de

traiter ; on n'en peut convenir d'aucun ; les choses étaient dans cet Etat, quand arrive en France la nouvelle de la Publication par le Congrès des Dépêches des Envoyés Extraordinaires d'Amérique. La Situation de M. Gerry en devient plus embarrassante ; il lui paraît que, depuis cet Incident, le Gouvernement Français n'est plus aussi sincèrement disposé pour une Réconciliation avec l'Amérique ; il pense que ce Gouvernement ne cherche qu'à gagner du temps ; enfin le Plan de M. de Talleyrand de porter M. Gerry à entrer avec lui en Négociation séparée manque absolument ; le Ministre Américain demande itérativement et obtient enfin ses Passeports, et vers la Fin de Juillet 1798, il s'embarque au Havre pour l'Amérique à Bord du Bâtiment, la Sophie.

Nartasket Road, 1st October, 1798.

Sir,

I have the honor to inform you of my arrival here this morning, in the Brigantine Sophia, Capt. Geddes, from Havre, but last from Portsmouth in Great-Britain, and to enclose copies of my letters to yourself of the 12th and 13th of May last, No. 1 and 2 ; of the correspondence between Mr. Talleyrand, the French Minister of foreign affairs and myself, numbered according to the respective dates, from 3 to 28 inclusively ; of an arrêté enclosed in his last letter, No. 29 ; of my letter to Mr. Hauteval and his answer No. 30 and 31 ; of my letter to Mr. King, our Minister at London, and an Extract to Dr. Tazewell the bearer thereof, No. 32 and 33 ; also the substance of a conference with the Dutch Minister, a day or two before I left Paris, No. 34, and an anonymous publication, "on the President's communication" of our dispatches, said to have issued from the French office of foreign affairs, No. 35.

When I left the United States in August 1797, the citizens in general appeared to be earnestly desirous of a reconciliation with France, on terms consistent with the honor, interest and welfare of the two Republics ; these being free from claims and controversies in regard to territory,

boundaries and many matters which embroil states ; and from competitions relative to their productions, manufactures, and commerce, had a mutual and manifest interest in the renewal of their commercial and friendly intercourse with each other. Nature seemed to have entitled the United States in their remote situation, to the peaceable pursuit of their industry, by means whereof, in its various branches, their wealth and power were rapidly increasing : and to an exemption from the conflicts of Europe ; which, involving them, would check their population, drain their resources, and ensure their poverty. On a candid investigation then of the causes of the unhappy differences between the two governments, on a disposition to correct errors, to which all governments are more or less liable, and on their mutual resolution to reciprocate justice, the success of the mission was conceived to depend ; and as this temper marked the plan of pacification adopted by the government of the United States, there was a rational prospect of success.

Soon after our arrival at Paris, the scene was changed, and the hope of a reconciliation being diminished, the necessity of harmony in the United States was proportionably increased, as the only mean for preserving their welfare and independence at home, their rights and respectability abroad. In case of a war, there was every reason to believe that they would be able to defend themselves against any nation, or coalition that could be formed against them ; whilst their citizens could consider the government, chosen by themselves, as the ^{1st} star of their salvation ; should rally round its standard, when raised for their defence ; should rise superior to foreign intrigues, always expert in fomenting divisions, and often aided by popular elections, legislative debates, and clashing opinions and interests ; and should promote unanimity by toleration amongst themselves. Nevertheless, the critical state of our affairs required, that France should not be furnished with pretexts, for charging the American Government, or ministers, with neglect of means for obtaining a reconciliation.

When the minister of foreign affairs, in October last, unauthorized by the Executive Directory, as Mr. Y. had informed the Envoys, to have any communications with them, had expressed a desire to see them in their private capacities, I was opposed to a compliance, *individually*; not from considerations of etiquette, which had no weight in my mind, but because it would infer on me, a separate agency in matters wherein I was but jointly authorized: to prevent however the imputation of a failure of the negotiation, then daily expected, to the United States, I submitted to the measure, was unsuccessful in my attempts to make it general, and was thereby subjected to a series of embarrassments.

The particular attentions of the minister to me, lest they should be invidious, were in every instance but two declined, and in one of these I yielded to importunity: preferences I viewed as a source of division.

The second conference which I held with the minister, being on the 17th of December, and his propositions to the Envoys, were published with their dispatches. Their answer which was unanimously in the negative, was delivered by me to his secretary. Mr. Y. had expected it, and expressed a surprize that the secretary had applied for it.

On the 4th of February, the minister by order of the Executive Directory, proposed that I should treat separately: the circumstances thereof, and of my refusal are generally detailed in the correspondence enclosed.

The minister afterwards desired me by his secretary, to communicate to the other envoys his proposition for a loan subsequent to the war; which he soon relinquished. On this subject our first instructions were silent; the last were explicit, and necessary to determine my judgment.

In consequence of his letter to the Envoys, of the 28th Ventôse (18th of March), the minister renewed his proposition for me to treat separately; and again received a negative answer. He then proposed that I should remain at Paris, until the sense of the government could

be obtained : declaring as before that an immediate rupture would be the consequence of my departure. To have left France under such circumstances, was a measure which I could not justify. The power of declaring war, was not intrusted with the supreme Executive of the United States, much less with a minister ; and to have thus provoked it, would in my mind have been tantamount to a declaration thereof. Indeed, to have plunged the nation into a war suddenly, even if it was inevitable, appeared to me in other respects unwarrantable. Congress, who alone had the right to adopt this measure, might, by such a premature step, have been defeated in their previous arrangements, and subjected to other manifest inconveniences and the Executive might have been placed on groundless advantageous for forming alliances, &c. whereas my detention at Paris gained time, if this was requisite ; and could not procrastinate a declaration of war, if the United States were prepared for it. Other considerations had their weight. France at that time was making very formidable preparations, with a professed design, *to overthrow the British Government* : and such were the exertions and enthusiasm of her citizens, armies, and administration, as to spread a general alarm throughout Great-Britain. It was evident then to common observation, that should France succeed, she would acquire by the powerful navy and resources of Britain, such strength, as to be able to give law to Europe, and to regions more remote : and it was rational to suppose, that a coalition would be formed, of such european powers as were not in the interest or under the influence of France, to put an end to the war, by offering their mediation, and declaring their intention to oppose the power which should refuse it : the temporizing negotiations at Rastadt had this aspect. Moreover, the internal affairs of France were in an agitated state, and threatened civil commotions. If then, on the one hand, a new coalition against France, a change in her government, or even a successful resistance on the part of Great Britain had happened, a fa-

yourable opportunity would have presented itself to the United States, for obtaining of her a just and advantageous treaty: and this would have been lost, by a previous rupture in consequence of my departure. If, on the other hand, Great-Britain, unaided, had fallen, the United States would have been in a much better condition at peace, than in war with the most formidable power the world had exhibited. In such an event, they could have had but small hopes of resisting France; and it might have been deemed madness in them, even to have attempted it. For these reasons, I thought it my indispensable duty, to remain a short time at Paris.

The tenour of our instructions, the last as well as the first, shews, that the government did not anticipate the proposition for treating separately, and made no provision for such an event.

The french minister has uniformly insisted, that I had power to treat; because in the instrument he saw, that the envoys had a separate, and joint authority. If the position could be established, it would authorize a foreign government, at pleasure, to reduce the number of a commission consisting of two or more members, and thus to deprive the constituting government of the joint abilities of its ministers; or absurdly to insist on a separate negotiation with each minister, and to choose from their several treaties, that which should best answer its purpose: besides, in case of the misconduct of ministers, their government has a right to expect information thereof, and an opportunity of substituting others in their stead; but, I trust, that the arguments stated in the correspondence enclosed are sufficient to shew, that the power to treat did not exist; or, if it did, that I was justified, under existing circumstances, in refusing to exercise it.

On the 3d of April I received the minister's note, No. 3. and apprehending that he proposed to draw me into a negotiation, notwithstanding my resolution to the contrary, I sent him an answer on the 4th of April, No. 4. to which he made no reply.

On the 20th of April, considering the unpleasant situation in which I was placed, detached from the other envoys, destitute of power to negotiate, irreconcilable to an application for it, and even to an acceptance of it, if offered, I addressed to the minister the letter, (No. 5.) urged him to come forward with propositions for a reconciliation, and to release me from my confinement.

At our next interview, on the 28th of April, the minister informed me, that he could not comply with my proposals; not knowing the views of the United States, in regard to a treaty. To remove this obstacle, I gave the information, and in it the fullest extent to the claims of the american citizens against France; but I was silent with respect to the guaranty of the eleventh article of the treaty of alliance, and to what relates to the barbary powers; and left it with him, in the first instance, to provide for a liberal commerce to the french colonies in the East and West Indies, and to express the views of France in regard to the proposed treaty. We afterwards conferred on the necessity of sending a french minister to the United States; and he promised to deliver me, within three or four days, the project of a treaty. On the evening of the 12th of May, Mr. Humphreys arrived, and delivered me your letter of the 23d March, which the next morning was decyphered. Our government could not then have been apprized of the new state of affairs; but as it had signified, "that suspense was ruinous," I thought myself authorized to give immediate information to the minister of foreign affairs, that I should return to America in the Sophia, as soon as she could be fitted for the sea; and that it was necessary to expedite the measures we had contemplated, for effecting a treaty. The Executive Directory, as well as the minister, had, it was said, during the three preceding weeks, been indispensably occupied by the new elections; and these being finished, they could now proceed on american affairs: had the latter required more time than I had

allotted for them, I was determined to have detained the *Sophia* a short period, rather than to have defeated the proposed arrangements. This I considered as my duty; for whilst the government manifested in their instructions, a just indignation at the treatment which their envoys had received, it evinced a disposition to peace: and as far as I could judge, the same temper now existed on the part of France.

On the 24th of May, the minister sent the principal secretary of his bureau to inform me, that his government did not wish to break the british treaty; but expected, in the new treaty, such provisions as would indemnify France, and put her on a footing with that nation: to this I answered, that the information gave me pleasure: that it was impossible for the United States, by violating that treaty, to become perfidious; that the treaty itself was an evidence of their good faith, inasmuch as it contained a provision, "that it should not be construed or operate, contrary to former and existing public treaties, with other sovereigns or states;" that, if in its construction or operation, France had sustained injuries, still she was sure of redress by the provisions thereof, as well as by her own treaty with the United States; and that the latter ensured to her an extension of favours, in regard to commerce and navigation, if any such had been granted to Great-Britain.

He said, there was a second point, which respected the claims of american citizens on the French Republic; that if the latter should not be able to pay them, when adjusted, and the United States would assume and pay them, France would reimburse the amount thereof. To this I answered, that the measure was impossible: but, that the claims might be adjusted, funded, and made transferable by France; and be redeemed pursuant to such stipulations, as might be agreed on between the two governments.

He then stated a third point, which respected the Consular Convention. I answered, that perhaps it

would be best, as its duration would be short, to let it expire. But if the present war should soon terminate, and commerce revive in France, it may be well to revise it in order to prevent further disputes, respecting the evidence for apprehending deserters, the judicial officers for issuing warrants, and the mode of executing consular decisions; stating, at the same time, that foreign tribunals could never be admitted within the jurisdiction of the United States. The Secretary reported the conference, and informed me the next morning, that the minister would send me his answer, in writing, in a few days.

On the 26th of May, I had a conference with the minister, the substance of which is stated in my letter No. 24. Having pressed on this, as well as former occasions, the necessity of sending a minister to the United States, he now readily acceded to it: this would have enabled France to relax from any stipulations, which she might have urged there, but which might be found by her minister in the United States, to endanger the treaty.

In this state were affairs on the 27th May, when I was called on by one of the city gazettes, which announced the publication of our dispatches, to deny their authenticity. Having reason to suppose, that the result of this new embarrassment, if not pacific, would be very violent, I prepared for the event, being obliged to abide the consequences.

On the 30th May, I received from the minister his letter, No. 6. and returned for answer No. 7. In this I repeated what was published in our dispatches, that X and Y had not produced a document of any kind, for authorizing their conference with us. I was not disposed to accuse, or exculpate the French Government, or minister: the latter had disavowed the intriguers, as they were stiled, and they, in their conferences with us had declared, that they were not authorized by the government; the matter was, therefore, left with the public, as it had been referred to their tribunal.

On the 1st of June, the minister sent me his letter, No. 8. and I desired to know of the bearer, why application was again made to me for the names of the intriguers, when they could be otherwise ascertained. He answered, that he believed, by the exertions of the bureau, and of the police of the city, the names were discovered; *and he mentioned them to me.* But, he added, that matters had become very serious; that the Directory expected something from me, in confirmation of this discovery; that this was the use which would be made of my letters; and that the minister did not wish for any declaration from me, but what should be perfectly consistent with truth. I assured him that no extremity should produce from me any other declaration, and sent the minister my letter, No. 10. In this I guarded against the publication, on my authority, of the names thus communicated; and did justice to certain individuals, who being suspected, were nevertheless innocent.

On the 7th of June, the publication, No. 35, appeared in the *Redacteur*. In this, contrary to assurances received, I was made to act a very conspicuous part; and was attacked, under a thin veil of insidious compliments: the cause thereof was the detail, in the dispatches, of my particular conferences. The next day, I prepared a letter to the minister, for detecting the artifices, and correcting the abuses, of that curious performance. But having considered, that it might open a door to altercation and delay, if not defeat the great object in view, or produce a mere disavowal of the anonymous publication, which afterwards was made in No. 21, I suppressed the letter, and, on the 10th June, addressed to him No. 13. In this availing myself of the *pacific declaration* contained in the strictures, I urged the *expedition of pacific measures*, as a requisite to their success.

On the 11th of June, I received from the minister No. 14, in which, as he had informed my secretary, he revived the disagreeable subject of the dispatches; and

he concluded by formally demanding, whether I was in a situation to treat? Every circumstance concurred now to prove, that the dispatches had excited the resentment of the minister against the government, as well as myself: and had changed his plan in regard to the United States.

On the 13th June, I answered that letter, by No. 15, and on the 20th, received a reply, No. 16. In this, the minister, in lieu of the proposed plan of a treaty, presented a general plan of negotiation: notwithstanding, as he stated it, "my persevering to think my powers were inadequate," and "the most irritating provocations:" by the *first "point"* of this plan, a door would have been open to endless altercations, respecting the supposed abuse of the French Government, by private writings, public acts of the United States, official letters and the dispatches of the envoys; by the *second point*, the sense of the treaties was to be fixed, and the rights flowing therefrom, were to be established; and by the *third point*, the damages of deviations from the treaties were to be examined: he then stated, that "*very general instructions*" were necessary for the negotiations; and proposed, that I should apply for them: *very general indeed* must the instructions have been, to have negotiated such a plan as this; and it was impossible to view it in any other light than that of an evasion of the arrangements proposed. It was easy to have pointed out the misinterpretations, and misrepresentations, as well as the impolicy of the plan; but I was under the necessity of avoiding this, or of entering into a formal negotiation. To allure me into it, was probably the object of the minister; for, soon afterwards, he invited me to discuss in *writing* some articles of the *second point*. In my answer, therefore, of the 22d June, No. 17. I merely observed, that "if he conceived a reconciliation would be best promoted by his mode only, I sincerely wished it success."

On the 29th June, I received the minister's letter, No. 19, in which, after relaxing from the *first point*

of his general plan, and suggesting that the *third* would not meet with much difficulty, as soon as the second should be amicably adjusted, he, for the first time, proposed, that I should discuss in *writing*, some articles of the treaty, comprized under the *second* point. Nearly *three months* had then elapsed, since I had declared I would only *confer* with him informally on the objects of the mission ; - nearly *two months* since he was informed of the views of the United States in regard to a treaty, and had promised to come forward in a few days with the project thereof ; and *six weeks* since I had apprized him of my intention to embark in the *Sophia*. As then a compliance with his wishes would have given a sanction not only to his departure from the plan we had agreed on for forming an arrangement, but also to the measure adopted by his government, of accrediting at pleasure the whole or a part only of a commission ; and, as I had frequently demanded my passport, by letters, as well as by my secretary, I passed in silence his proposition for discussion, *as a measure he well knew was inadmissible*, and urged in my letter of the 1st July, No. 20. in a more decided tone, the demand for the passport, &c.

On the 5th July, not having received an answer to my last, I called on the minister, to know the cause of his detaining my passport, and to give him an opportunity before my departure, of removing the obstacles to a plan of pacification. He began by observing, that in a note accompanying his last letter, he had stated two points respecting the consular convention, expecting that I would discuss them, as he had done, but I had not taken any notice of them ; that I had said I had no powers.—He had powers ; and of consequence I should not compromit my state, whilst he would compromit his : that I might take the discussion to the United States, and my government might judge of it ; that when my colleagues were here, the government could not treat with them ; that when they were sent off, it was ready to treat with me ; that although I had no powers

I might send for them; or remaining there might give my government an opportunity of sending other ministers, if I did not choose to proceed in the business; that in this, there would be no responsibility on my part; that there were but a few points for discussion which might soon be finished; and that if a war was the consequence of my leaving the country, it would be chargeable to me. To which I replied, that the last proposition of the Directory for me to treat, was one which I had before rejected; that in April last, he knew I would only *confer* on the subjects of the mission, and made no objection to the measure; that on the 29th June, after my baggage was on board, and I was ready to embark, he first proposed a discussion in *writing*, of the articles of the treaty; that I considered this, however qualified, as a formal mode of negotiation, which I had uniformly declined; that had he brought forward, as he had proposed, the plan of a treaty, and in it comprized the articles which I had stated, we might have passed on it expeditiously, and might have made it acceptable to both governments; that the most important parts might have been first considered, and if not adjusted, might have precluded the necessity of passing on the rest; that in-addition to the objection already stated to his mode, it commenced with the consular convention, which would soon expire; that should we agree on this, and on the lesser points of the commercial treaty, he may reserve to the last the weighty articles thereof; and failing in these, we might waste several months, by a fruitless *negotiation*; that should we unite in all the points which he has suggested, his mode of discussion would require several months; that the loss of time, by these, or other means, might compromit the Government of the United States, and myself likewise, that if a war should be the consequence of his departing from the plan that we had agreed on, for obtaining a treaty, he would be chargeable as the cause of it. The minister said the mode he had proposed was generally adopted by France.

I replied, the other was not unusual, and in the present case was preferable, if not indispensable ; he observed that the notes which I had lent him respecting the views of the United-States, were informal. I answered, it was true, but that I would remove that difficulty : he then proposed the 7th July for another interview ; but afterwards put it off till the ninth. On the 6th I reduced the notes to form, for constituting a part of the treaty.

On the 9th of July I called on the minister ; and he enquired whether I had received his letter of that morning. I answered in the negative, and desired to know the contents ; he replied, a discussion of two other points of the consular convention ; on which I want your opinion in writing. I informed him that I had stated the views of the United States without discussion, and expected the same of him on the part of France ; that when this was done, I would proceed to a conference on each point, but not to an epistolary discussion ; that such a mode would require, of diligent negotiation, three months, and with his official engagements, double that time : he said, no ; that it would not require as much time as I had conceived ; that there were at most but six other points. On your side, I replied, but many on ours. He answered “ *pas d'avantage*,” none besides.

I said that I was glad to hear it, but to such a discussion as he proposed, I should prefer treating effectually. Some of the conversation was repeated which we had on the 7th, and I renewed my demand for the passport. He answered, that my refusal to discuss must first be given in writing, and we parted.—This is the substance of the two interviews.

On the same day, I received the letter mentioned at the interview, (No. 21) dated the 18th Messidor (6th July) in which, speaking of his general plan in No. 16, he says, “ but it is not sufficient to send these propositions to your government ; they are only the basis of discussions, necessary on each question of detail : the solution of which, we ought to find,” although, in the last-mentioned number, he had said in reference to them ;

“ I am persuaded that you will transmit to your government exact documents : it will be *its* province, to take the best measures for accomplishing a speedy reconciliation.” In the letter first-mentioned, the minister also observes, “ I have apprized you, that it would be inconvenient to charge with this discussion, a minister plenipotentiary at Philadelphia. Circumstances have rendered this inconvenience more serious : and I do not conceal from you that I fear new incidents.” The fact was, as I ascertained to my satisfaction, that after the arrival of the dispatches and other intelligence from the United States, the Executive Directory apprehended if a minister was sent there, that he would not be accredited ; and that overtures, or any plan unaccompanied by a minister, would meet a similar fate.

On the 10th July, in my letter No. 22, I refused an epistolary discussion, and demanded a definitive answer to my application for a passport and other documents.

On the 15th July, I received the minister's letter of the 24th Messidor, (the 12th July) No. 23, in which he appeals to me, for the truth of his assertion, “ that if nothing had prevented me from pursuing with him, the examination of the grievances, which separate the two countries, we should have needed nothing more than their respective ratifications.” Before the arrival of the dispatches of the envoys, the minister appeared to me sincere, and anxious to obtain a reconciliation. He had proposed by his secretary, an assumption of the debts due to american citizens ; which I rejected : but he had made no other proposition of a loan whatever ; and never renewed that. Indeed his views in general, as far as I could then ascertain them, were liberal in regard to a treaty : it is nevertheless impossible for me to determine whether we should have united in opinion, on every point of dispute between the republics. I had a full expectation, that by the middle of June at farthest, we should have agreed on the plan of a treaty ; and that a french minister would have been sent to America for completing it. I was likewise informed of the can-

didate : but after the arrival of the dispatches, although the minister, in the name of the Executive Directory, declared, that they persevered in their pacific intentions, he, probably, for the reasons stated in explaining No. 21, abandoned the plan we had at first agreed on, substituted a general plan of negotiation, discussed some articles thereof, in *writing*, and insisted, contrary to stipulations, on my answering him in the same mode. At this period, a reconciliation being quite problematical, one of his objects evidently was, to prepare materials for a manifesto, in the event of a war, to shew, that it was a matter of necessity, and not of choice. He says, "that after the arrival of the *Sophia*, I was disposed to depart; till that time, he had never conceived that I had a design to embark, *before we should have agreed on the definitive articles to be ratified by my government.*" Before and after the arrival of the *Sophia*, I had announced my intention to embark early in June; conceiving that the arrangements might be made by that period. I had no design, however, of departing before they were completed: provided, there should have been no reason to doubt of the minister's disposition, or of the success of our endeavours, for obtaining a reconciliation. His general conduct would have been the criterion of the first, and our progress in this business, of the last point: but having abandoned our original plan, he has not given me an opportunity to judge effectually of either.

On the 20th July, I sent the minister No. 24, and received on the 22d his reply, No. 25. In this he declines a contest in regard to the facts stated by me in No. 24, which I was ready to support: he complains of my proposition for lopping from any future negotiation, every preliminary of a loan, and of explanations upon speeches; and refers to his letter of the 30th of Prairial, No. 16, to prove, that this step was unnecessary. But although the first point of his plan in that letter is silent on these demands, they might, as I conceived, be hereafter revived, and were for this reason brought

again into view : by these means, they were effectually renounced.

The minister having, the day before I left Paris, *published his letter*, No. 23, rendered necessary the publication of my answer, No. 24, and the note, No. 26, as a preliminary thereto.

On the 8th of August, I received at Havre the minister's letter, No. 27, to which No. 28, is an answer : the former contained the *arrêté*, No. 29 ; and his desire to send it by the *Sophia*, probably produced the official impediments which for several days prevented her sailing. The minister is unwilling to admit that the *arrêté* was the effect of my representations : I believe there is no doubt of the fact, but it is a matter of little consequence.

No. 30 and 31, will shew, that Mr. Hauteval in his letter to the minister, relative to our first interview, committed some errors, and candidly corrected them.

No. 32 and 33, require no explanation.

No. 34, will shew the object of the dutch minister in his conference with me, and requires no comment. I was before informed, that this gentleman, if requested, would interpose his good offices ; but did not think it proper to make the application.

No. 35, has already been the subject of some general remarks. To No. 9, a verbal answer was sent by the minister, that the letters and dispatches therein mentioned, " had never reached the government."

On the 26th of July, I left Paris ; and from the best information which I could obtain relative to the disposition of the Executive Directory, (for I never had any direct communication with them) they were very desirous of a reconciliation between the republics. Every impediment to my departure had been adopted by the French minister ; and he would have prevented it, had he succeeded in his plan of an epistolary discussion : his object was, as I conceived, to gain time for ascertaining, whether the United States were then disposed to a treaty ; of this he manifested doubts, being per-

suaded, that their resentment was too great to admit of it. He seemed also to apprehend, that in consequence of the incredible exertions of Great Britain, and the unequivocal evidence she had given of her ability to defend herself, they were inclined to avenge their injuries, by an alliance with her : and that should France come forward with overtures, or the plan of a treaty, she would fail therein, and compromit her honor. I was nevertheless of opinion, that should France be just and liberal in her measures, the Government of the United States would still meet her on the ground of accommodation. My judgment was the result of their instructions ; for I had never received any other official intelligence since my departure from America : I have, therefore, uniformly inculcated that sentiment.

Having been thus in a situation, wherein amidst a series of events, each has been productive of fresh embarrassments, I have invariably pursued what appeared to me the honor, interest and welfare of my country, and been guided by the sense of the government, as far as I could ascertain it.

If the door is still open to peace, the establishment of it must be an happy event to the United States, as it will exempt them from calamities, which notwithstanding delusive appearances, will with short intervals probably continue for half a century, to exhaust and depopulate Europe.

But if the national pulse beats high for war, and the wise and constitutional councils of the United States shall consider it as the only safe and honorable alternative, may that omnipotent Being who controule events, protect them ; and may they commence the war with ardour, continue it with vigour, and terminate it with glory. That this will be the issue there can be no doubt, whilst the American Republic shall choose Union for her motto ; and profiting by the misfortunes of other nations, shall be convinced that *discord will insure dependence, and concord independence in War and Peace.*

I shall probably when at leisure, give you some other

details of less consequence, and in the interim remain, sir, with much esteem and respect, your very humble servant,

E. GERRY.

Timothy Pickering Esq. Secretary
of State of the United States.

(No. 1.)

Dépêche de M. Gerry du 12 Mai, 1798, adressée au Secrétaire d'Etat des Etats-Unis, pour lui faire passer une Lettre de M. de Talleyrand, avec la Réponse qu'il y avait faite, et pour l'informer qu'il a cru devoir ceder aux Instances du Gouvernement Français, qui désirait qu'il prolongeât son séjour à Paris jusqu'à ce que l'on sût les Intentions ultérieures du Gouvernement Fédéral, et qu'en conséquence M. Gerry restera à Paris, pour voir, s'il est possible d'amener un Accommodement entre les deux Etats; mais il déclare en même-temps qu'il ne suivra pas la Négociation d'une manière formelle.

Paris, 12th May, 1798.

Sir,

Being informed that Messrs. Prince and Brownfield who expected to sail in the same ship with General Marshall are yet at Bourdeaux, I embrace the only favourable opportunity which has occurred since his departure, to enclose you a copy of a note which I received from Mr. Talleyrand, minister of foreign relations, dated the 14th Germinal (April 3d), of my answer the 4th of April, and of my letter of the 20th of the same month, being the day after General Pinckney left Paris. I had intended to have sent Dr. Tazewell, who is now in my family as secretary, with my dispatches to our government, that no time might be lost in obtaining from it such arrangements for supplying my place, as might have enabled me immediately on his return to leave France; but the measure is become unnecessary, by the prospect which I have of being able soon to embark for the United States, with the acquiescence of this govern-

ment. The decision of the Executive Directory with respect to my colleagues, after we had obtained, what we had been informed in our first conference with Mr. Bellamy* was impracticable, a joint interview with the minister of foreign relations, and after the latter had seemed disposed to suspend matters, until we could obtain from our government an answer to our letters, was not less perplexing than surprizing; and their proposition to treat with me separately was inadmissible. It was a proposition to which I had given my negative above a month before, when made to me under an injunction of secrecy, by the minister of foreign relations. I was then informed, that an immediate rupture would be the result of my departure from France, and the same communication being again made, with information, that if I was determined not to negotiate separately, this government would be satisfied with my residence here, until the Government of the United States could take their measures. I consented to this from public considerations solely; for every private one was opposed to it. In my embarrassed situation, not losing sight of the great object of our mission, a reconciliation with this powerful republic, I have taken a position, by which I mean to ascertain, if possible, without compromising the Government of the United States, or myself, the ultimate views of France, with respect to them. It would have been impossible for me, under existing circumstances, to have consented to a separate negotiation, had the provisions been made in our powers and instructions: for two of my colleagues, one from the southern, and the other from the middle States, having been sent back, I could have had no prospect of forming a treaty, which would have given general satisfaction to my country; and I could never have undertaken any negotiation without that prospect. It is, therefore,

* C'est la personne désignée dans les dépêches des ministres américains par la lettre Y.

incumbent on me to declare, that should the result of my present endeavours present to our government more pleasing prospects, it is, nevertheless, my firm determination to proceed no further in this negotiation. The want of time and health preventing further communications at present, I have the honor to remain, Sir, with great esteem and respect,

your most obedient and
very humble servant,

(Signed) E. GERRY.

To the Secretary of State
of the United States of America.

(No. 2.)

Dépêche de M. Gerry à M. Pickering, Secrétaire d'Etat des Etats-Unis, en Date du 13 Mai, 1798. M. Gerry accuse la Réception des Instructions du 23 Mars, et se félicite de pouvoir s'embarquer pour l'Amérique à Bord du Brigantin la Sophie, qui lui avait porté ces Instructions. Il espère, sous peu de Jours, d'être informé par Ecrit des dernières Vues du Gouvernement Français à l'Egard de l'Amérique.

Paris, 13th May, 1798.

Dear Sir,

I have the honor to inform you that the brigantine Sophia arrived at Havre the 11th instant, and last evening at the moment of enclosing my dispatches to you of yesterday, Mr. Humphreys delivered to me your letter of instructions of the 23d of March, which shall be duly observed. The arrival of this vessel is a fortunate circumstance for me, and I shall embark in her for the United States, in lieu of taking my passage as I had proposed, in one of the american merchantmen now in the ports of France. The ultimate views of this government, which their minister has promised me in writing in a few days, shall be obtained if possible. I

remain, sir, with much esteem and respect, your very humble servant,

(Signed) E. GERRY.

To the secretary of state of the
United States of America.

(No. 3.)

*Lettre de M. de Talleyrand à M. Gerry, en Date
du 3 Avril, 1798. **

(No. 4.)

*Réponse de M. Gerry, à M. de Talleyrand du
4 Avril, 1798. **

(No. 5.)

Lettre de M. Gerry à M. de Talleyrand du 20 Avril, 1798. M. Gerry fait voir l'Embarras, où il se trouve en Suite du Départ de ses Collègues ; il rappelle l'Objet de la Prolongation de son Séjour à Paris, et demande en Conséquence de recevoir bientôt de la part du Gouvernement Français des Propositions tellement conciliantes qu'on puisse en espérer le Rétablissement d'une Harmonie parfaite entre les deux Nations ; comme ses Affaires particulières ne lui permettent pas de rester plus long-temps en France, il voudrait, en partant, être le Porteur de ces Propositions à son Gouvernement, et il espère qu'en attendant les Hostilités contre le Commerce américain seront suspendues.

Citizen Minister,

My colleagues having been under the necessity of departing from Paris, have left me in the most painful situation: as it respects themselves, the govern-

* Ces deux lettres se trouvent déjà à la fin de la correspondance de Messrs Pinckney, Marshall et Gerry ; voyez page 227 et 228 de ce volume.

ment and nation which I had the honor with them to represent, and my personal circumstances. The alternatives presented to my choice, were the continuance of my residence here, or an immediate rupture on my departure. I have chosen the former, prompted by every consideration of the duty I owed my country.

The object of this government in my remaining here, as announced in your official note of the 14th Germinal, (3d April) was "to resume our reciprocal communications on the interests of the French Republic, and of the United States." My answer informed you "that I could only confer informally and unaccredited, on any subject respecting our mission, and communicate to the Government of the United States, the result of such conferences; being, in my individual capacity, unauthorized to give them an official stamp." This, then, I consider as the line of conduct well understood to be observed on my part; and, in the present state of affairs, Citizen Minister, I flatter myself, that propositions for terminating all differences, for the restoration of harmony and friendship, and for the re-establishment of commerce between the United States and France, will be promptly made on the part of the latter; that they will be such, as corresponding with the justice and magnanimity of this great nation, and with sound policy, will ensure success; that I shall have an opportunity of soon embarking for the United States, and presenting them to my government for their consideration; and that all further depredations on our commerce, by french cruizers, will in the interim be prohibited. If in forming this arrangement, I can render any services, you may be always sure of my immediate and cheerful co-operation.

Measures like these will at once extinguish those coals of discord, which kindled into a flame, must be destructive of the respective interests of the two Republics; will not only restore, but increase, if possible, their former confidence; and terminate in a competition for excelling each other in mutual acts of generosity and kindness.

In any event, Citizen Minister, I flatter myself it will not be thought necessary for me to remain long in France, as the state of my family and affairs require my immediate return to the United States ; and as their Consul General will continue his residence here, which, pending negotiation, will answer every political purpose. I pray you, Citizen Minister, to accept the assurances of my most perfect esteem and regard.

(Signed) E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

(No. 6.)

Lettre de M. de Talleyrand, adressée à M. Gerry en Date du 30 Mai, 1798, pour lui communiquer la Publication de la Correspondance des Ministres Américains à Paris. M. de Talleyrand demande à connaître les Noms désignés par les Initiales W. X. Y. et Z, et celui de la Femme qui aurait eu avec M. Pinckney des Conversations sur les Intérêts de l'Amérique.

*Le Ministre des Relations Extérieures à Mr. Gerry,
Envoyé des Etats-Unis.*

Paris, le 11 Prairial (30 Mai) an 6.

Je vous communique, Monsieur, une Gazette de Londres du 15 Mai dernier (v. st.). Vous y trouverez une très-étrange publication. Je ne puis voir, sans surprise, que des intrigans aient profité de l'isolement, dans lequel les Envoyés des Etats-Unis se sont tenus, pour faire des propositions et tenir des discours, dont l'objet était évidemment de vous tromper. Je vous prie de me faire connaître immédiatement les noms, désignés par les initiales W. X. Y. et Z. et celui de la femme, qui est désignée comme ayant eu, avec M. Pinckney, des conversations sur les intérêts de l'Amérique. Si vous répugnez à me les envoyer par écrit, veuillez les communiquer confidentiellement au porteur. Je dois compter sur votre empressement à mettre le gouverne-

ment à même d'approfondir ces menées, dont je vous félicite de n'avoir pas été la dupe, et que vous devez desirer de voir s'éclaircir.

Recevez l'assurance de ma parfaite considération.

(Signé)

CH. MAU. TALLEYRAND.

(No. 7.)

Réponse de M. Gerry du 31 Mai, 1798. Le Ministre Américain ne sachant, si ces Personnes avaient des Pouvoirs définis, ou qu'elles les excédassent, répugne à indiquer leurs Noms; il déclare cependant, pour détourner des Soupçons qui pourraient tomber sur des Innocens, que trois des Personnes en Question sont des étrangers, et que la quatrième n'a agi que comme Messager ou interprète.

Paris, May 31, 1798.

Your letter, Citizen Minister, of the 11th Prairial (30th May), and the gazette to which it refers, were delivered to me by Mr. —, the latter contains the whole of the informal negotiations communicated by the envoys to their government, and the letter states that certain intriguers have made propositions and held conversations with the envoys, the object of which was evidently to deceive them. You have, therefore, desired me to communicate their names. If any of those persons were unauthorized to act, or having definite powers, have exceeded them, they certainly have abused this government and the envoys likewise; but I am incompetent to judge of these points, as they did not produce, to my knowledge, credentials or documents of any kind.

The publications referred to are sufficient to shew the delicate situation I am in with respect to the names of the persons, and are marked with such circumstances, as to enable you, I flatter myself, to investigate the subject without insisting on any communications on my part.

To free, however, some innocent persons from suspicions which are said to have embarrassed them, I have

no objection to declare that three of the persons were foreigners, and that the fourth acted merely as a messenger and linguist.

You will observe, Citizen Minister, how extremely averse the envoys were from such an informal mode of proceeding, by their answer of October 30th, to certain propositions previously made to them; that on the 1st of November they agreed to put an end to such an intercourse; and that they carried into effect their resolution, notwithstanding the re-iterated attempts afterwards made to defeat it. They conceived it, nevertheless, to be their duty to make a communication of the whole to their government.

Accept, Citizen Minister, the assurances of my perfect esteem.

(Copy)

(Signed)

E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

(No. 8.)

Lettre de M. de Talleyrand à M. Gerry en Date du 1 Juin, 1798. Le Ministre des Relations Extérieures de France presse vivement M. Gerry, 1.) d'articuler les Noms des Personnes en question, soit par Ecrit, soit de Bouche confidentiellement; 2.) de nommer la Femme, dont fait mention le Général Pinckney; 3.) de déclarer, si quelqu'un des Employés du Ministère des Relations Extérieures, et qui fut autorisé à voir les Envoyés d'Amérique, leur a fait une Ouverture qui eût le moindre Rapport avec la Proposition choquante, faite par X. et Y. de payer une Somme d'Argent pour des Objets de corruption ?

*Le Ministre des Relations Extérieures à Mr. Gerry,
Envoyé des Etats-Unis*

Paris, le 13. Prairial (1. Juin.) an 6.

“ J’ai reçu, Monsieur, votre lettre d’hier. Vous m’informez, “ 1. que la gazette présentée contient

toutes les négociations informes, communiquées par les envoyés à leur gouvernement; 2. que les personnes, dont il est question, n'ont produit, à votre connaissance, aucune autorisation, aucun document, de quelque espèce que ce fût, qui les accréditât; 3. que trois des individus mentionnés (c'est-à-dire, dans l'ordre où je les ai placés, W. X. Y.) sont des étrangers, et le quatrième (c'est-à-dire Z.) n'a agi que comme messenger et interprète." Quoique je sente toute votre répugnance à nommer ces individus, je dois vous prier instamment de la subordonner à l'importance de l'objet. Veuillez donc bien, 1. ou me donner leurs noms par écrit, ou les communiquer confidentiellement au porteur; 2. nommer la femme, que Mr. Pinckney cite; 3. me dire, si aucun des citoyens, attachés à mes travaux, et autorisés par moi à voir les envoyés, ont dit un mot, qui eût le moindre rapport avec la *proposition choquante*, qui a été faite par X. et Y., de *remettre une somme quelconque, pour une distribution corruptrice.*"

Recevez, Monsieur, l'assurance de ma parfaite considération.

(Signé)

CH. MAU. TALLEYRAND.

(No. 9.)

Lettre de M. Gerry à M. de Talleyrand en Date du 1 Juin 1798, pour demander la Restitution de différentes Dépêches et Lettres d'Amérique qui, ayant été enlevées à Bord d'un Navire Américain, avaient été envoyées à Rotterdam, et puis transmises au Gouvernement Français par Ordre du Ministre de France à la Haye.

CITIZEN MINISTER,

Being officially informed that sundry letters for General Marshall, Mr. Murray, our minister at the Hague, Mr. Bourne, our consul at Amsterdam, the house of Dange and Bourne, and myself, captured in the american ship Farmer, some time since, and sent to Rotterdam, were by order of Mr. Delacroix, transmitted to Paris, in pursuance of the instructions he received from

this government, and having made several unsuccessful efforts to recover these dispatches, permit me to request your assistance for obtaining them without further delay.

Accept, Citizen Minister, the assurance of my perfect esteem and respect.

(Signed) E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

(No. 10.)

Réponse de M. Gerry, en Date du 3 Juin, 1798, à la Lettre de M. de Talleyrand du 1 Juin, (No. 8). Le Ministre Américain s'engage 1) à adresser à M. de Talleyrand les Noms de X. Y. Z. s'il l'assure qu'ils ne seront pas publiés comme venant de lui; W. ne lui ayant jamais parlé au Sujet de X. ou de ses Ouvertures, il ne juge pas convenable de le nommer; 2) Il ne peut donner le Nom d'aucune Dame, puisqu'il n'y en a pas qui ait eu des Communications politiques avec lui depuis son Arrivée à Paris; 3) M. Gerry déclare que les Employés aux Bureaux de M. de Talleyrand, autorisés à voir les Envoyés, n'ont jamais prononcé un Mot qui eût le moindre Rapport avec la Proposition de X et Y. de payer de l'Argent pour des Distributions corruptrices.

Paris, June 3, 1798. (Prairial 15, an 6.)

Citizen Minister,

Mr. — has delivered me your letter of the 13th Prairial, wherein after recapitulating a part of mine, you request me immediately to submit to the importance of the object, and, first, to give you in writing, or communicate confidentially to him, the names of those persons designated by the letters W. X. Y. Z. 2dly. to name the woman quoted by Mr. Pinckney. 3dly. to inform you whether any of the citizens attached to your employments, and authorized by you to see the envoys, have said one word which had the least relation to the shocking proposition which has been

made by X. and Y. for us to deliver any sum whatever for a corrupt distribution.

With respect to the persons designated by X. Y. Z., I will inclose you their names under my hand and seal, on your assuring me, that they shall not be published on my authority, although the measure does not appear to me necessary for their discovery : and Z. as he informs me, has made himself known to you. But W. never having spoken to me a word relative to X. or to any part of our communications, the manifest impropriety of my giving hearsay information, will, I presume, apologize for omitting it.

I cannot give you the name of any lady, for no one has made any political communication to me since my arrival in Paris.

In regard to the Citizens attached to your employments, and authorized by you to see the envoys on your official communications, I do not recollect a word from any of them, which had the least relation to the proposition made by X. and Y. in their informal negotiations, to pay money for corrupt purposes.

Accept, I pray you, Citizen Minister, the assurances of my perfect esteem and respect.

(Signed)

E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

(No. 11.)

Lettre de M. de Talleyrand à M. Gerry, du 4 Juin, 1798. Le premier donne l'Assurance qu'avait demandée M. Gerry, relativement à la Communication des Noms.

*Le Ministre des Relations Extérieures à M. Gerry,
Envoyé des Etats-Unis.*

Paris, le 16 Prairial, (4 Juin) an 6.

Votre lettre d'hier, Monsieur, vient de m'être remise. Vous pouvez m'adresser, en toute confiance, les noms que vous m'annoncez, sous votre signature et votre

sceau. Je vous donne l'assurance, qu'ils ne seront pas publiés comme venant de vous.

Recevez, Monsieur, l'assurance de ma parfaite considération.

(Signé)

CH. MAU. TALLEYRAND.

[*Nota.* Les noms ont été en effet envoyés au ministre, qui en a fait à l'instant le dépôt.]

(No. 12.)

Note confidentielle de M. Gerry, par laquelle il déclare les Noms de X. Y. Z.; mais le Gouvernement Américain croit devoir supprimer celui de X. puisque la Promesse des Envoyés de ne point publier les Noms de ces Messrs. subsistait dans toute sa force à l'Egard de Monsieur X. qui n'avait pas, comme les deux autres, avoué son déguisement.

Paris, June, 1798 (Prairial, an 6).

The names of the persons designated in the communications of the envoys extraordinary of the United States to their government, published in the commercial advertiser of the 11th of April last at New York are as follow :

X. is Mr. ———.*

Y. is Mr. Bellamy.

Z. is Mr. Hauteval.

(Signed)

E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

* Mr. Gerry has inserted the proper name of X. in this document, as given to Monsieur Talleyrand; but the person designated by X. not having (like Y.) avowed himself, the promise made by the envoys to him and Y. "that their names should, in no event, be made public," is still obligatory on the executive in respect to X. and, therefore, his name is here omitted.

(No. 13.)

Lettre de M. Gerry à M. de Talleyrand, en Date du 10 Juin, 1798. Le Ministre Américain se prévaut de la Déclaration du Gouvernement Français faite dans un Ecrit demi-officiel au Sujet de la Publication de la Correspondance des Ministres Plénipotentiaires des Etats-Unis, "QUE LA FRANCE N'A CESSÉ, QU'ELLE NE CESSERA JAMAIS DE MANIFESTER DES DISPOSITIONS POUR VIVRE EN PAIX AVEC L'AMÉRIQUE" ; pour presser le Ministre des Relations Extérieures de prendre des Arrangemens qui puissent tranquilliser les Etats-Unis, rouvrir les Débouchés du Commerce entre les deux Pays, et rassurer l'Amérique sur le bon Succès de ses Efforts pour le Rétablissement de la Paix. Il demande, en même-temps, d'exempter de l'Embargo le Brigantin la Sophie, à Bord duquel M. Gerry se propose de retourner en Amérique, et rappelle l'Expédition de ses Passéport et Sauf-Conduit.

Paris, 10th June, 1798.

Citizen Minister,

Having been informed by my secretary on the 7th, that you proposed to write to me the beginning of this decade, I have impatiently expected, but have not yet received, your communications.

The arrival of the newspapers, containing the dispatches of the envoys to the Government of the United States, after embarrassing and detaining me a fortnight, has produced a publication, wherein it is declared, that this republic "will never cease to manifest her dispositions to live in peace with America."

If this déclaration really is, as it appears to be, official and expressive of the sense of this government, and is followed by a system of policy superior to unimportant considerations, permanent friendship may be soon established between the two republics.

When it is considered that nine months have elapsed since the arrival in Paris of the ministers who were charged with this important negotiation, and six weeks

since the departure of two of them ; when this delay, and a series of the most unfortunate events, have inevitably produced alarming apprehensions on the part of the government and citizens of the United States, that France is hostile towards them, and waits only for a favourable opportunity to evince it ; when France herself, in the publication mentioned, has declared, that her enemies flatter themselves with the hope of exciting in the United States a war against her ; when, in this belief, she must be convinced, that in such a critical state of affairs, events are too rapid to admit of delay ; when such is the ability and decision of this government, in some of its most important negotiations, as to require but a few days to compleat them ; I flatter myself that such an arrangement on the part of this government will speedily be made, as will manifest its amicable disposition towards the United States, quiet the apprehensions of their government, open, on a liberal system, the channels of their commerce with this country, and afford them a well-grounded assurance of a speedy and happy issue to their efforts for peace.

The brigantine *Sophia*, Henry Geddes, master, in which I mean immediately to embark, is national property ; but nevertheless subject, as is represented, to detention by the embargo at Havre : I must request, therefore, an order for exempting her from this prohibition.

My passport, and the letter of safe-conduct for the vessel, are not yet received.

Accept, I pray you, Citizen Minister, the assurances of my perfect consideration.

(Signed) E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

(No. 14.)

Lettre de M. de Talleyrand à M. Gerry, en Date du 10 Juin, 1798. Le Ministre des Relations Extérieures ayant cherché à découvrir le Fond des Intrigues, dont

il a été Question dans ses trois dernières Lettres à M. Gerry, déclare, qu'il est au-dessous de la Dignité du Gouvernement Français de donner des Explications ultérieures à ce Sujet. Il se plaint des Intentions peu amicales, qui avaient été manifestées par le Message du Président des Etats-Unis du 3 Avril, 1798, et par la Publication prématurée de la Correspondance des Envoyés Extraordinaires ; il espère qu'on publiera également sa Note du 18 Mars, 1798, dont le contenu serait capable d'effacer en Amérique les Impressions d'Inquiétude qu'on y avait données aux Esprits. M. de Talleyrand assure que le Gouvernement Français dédaignant toutes les Personnalités, et supérieur à toutes les Manœuvres de ses Ennemis, persiste dans l'Intention de concilier tous les Différends subsistans entre les deux Pays, et qu'il suppose que le Gouvernement Fédéral est dans des Dispositions également sincères. M. de Talleyrand demande par conséquent à M. Gerry, s'il est enfin dans une Situation à donner Suite à cet Objet important.

(TRANSLATION.)

Paris, 22d Prairial, 6th year (10th June, 1798.)

The Minister of Exterior Relations of the French Republic, to Mr. Gerry, Envoy of the United States.

You could hitherto have remarked, Sir, in my letters of the 11th, 13th, and 16th, of this month, nothing but my eagerness to fathom the dark intrigue, therein referred to, and to discover its ramifications. All further explanation in this respect would be beneath the dignity of the French Government.

But I will not preserve the same silence on the intention manifested by the message of the President of the United States to the legislature, of the 14th Germinal (April 3d, 1798), by the nature of the documents adduced as pertaining to the basis of a negotiation, by the rapid publicity given to this strange collection, by the concealments made of the official communications.

That intention is too well perceived in France and in America to require a developement. It is sufficient to repel the rumour, so injuriously spread, of the hostile dispositions of France. I will, therefore, refer myself to the note I addressed to the envoys on the 20th of last Ventose (March 18, 1798). I doubt not that they will have promptly forwarded it to the President of the United States, and I must believe, that as soon as it shall be made public, it will efface from the minds of the american people the ill-founded uneasiness which they have been made to entertain. As to the French Government, superior to all the personalities, to all the manœuvres of its enemies, it perseveres in the intention of conciliating with sincerity all the differences which have happened between the two countries. I confirm it to you anew. The French Republic desires to be restored to the rights which its treaties with your government confer upon it, and through those means it desires to assure yours. You claim indemnities: it equally demands them; and this disposition being as sincere on the part of the Government of the United States, as it is on its part, will speedily remove all the difficulties.

It remains for me to ask you, Sir, whether you are at length in a situation to proceed towards this important object.

Receive, Sir, the assurance of my perfect consideration.

(Signed) CH. MAU. TALLEYRAND.

(No. 15.)

Réponse de M. Gerry du 13 Juin, 1798, à la précédente Lettre de M. de Talleyrand. Le Ministre Américain fait voir, par le Rapprochement des Dates, que la Note du 18 Mars n'a pu être publiée par le Président des Etats-Unis le 3 Avril; il rappelle à M. de Talleyrand qu'il a dû se refuser à une Négociation séparée, qui lui avoit été proposée avant ladite Note, que cependant il a cédé depuis à l'Invitation du Ministre de rester encore en

France pour éviter une Rupture ; qu'il se félicite d'avoir ensuite reçu de la Part de M. de Talleyrand des Déclarations conciliantes ; qu'il avait espéré que le Gouvernement Français ferait un Arrangement conforme à ces Déclarations, afin qu'il eût pu en être le Porteur aux Etats-Unis, auxquels il était sur le Point de retourner. M. Gerry déclare en même-temps qu'il n'a point de Pouvoirs pour entamer la Négociation, mais il pense, que l'Arrangement préalable qu'il propose pourrait être fait par la France, pour être achevé par le Ministre Français que le Directoire enverrait en Amérique.

Mr. Gerry, to the Minister of Foreign Relations of the French Republic.

Paris, 13th June, 1798.

I have received, citizen minister, your letter of the 22d Prairial (10th June), wherein, after informing me that all further explanation respecting the dark intrigue in question, will be below the dignity of the French Government, you say, that you will not keep the same silence upon the intention manifested in the message of the President of the United States to the legislature, the 14th Germinal (3d April) ; in the nature of the pieces produced, as forming part of a negotiation ; in the rapid publicity given to this strange collection ; and in the concealment of official communications, by which, in the subsequent part of your letter, you allude to your note to the Envoys of the 28th Ventose (18th March) last.

If the wishes and interest of the two Republics call loudly for an accommodation of their differences, (and of this, *the Government of France*, as well as *that of the United States*, appears to be convinced,) is not a restoration of friendship between *them*, one of the most direct means for accomplishing that desirable object ? And is it not altogether neglected ? The unfounded prejudices against the President of the United States, in regard to his message, will be manifest, by comparing it with his official duty, designated by the constitution, and

also by referring to the dates of your note and of his message ; whereby it will appear, that the latter was but sixteen days later than the former, and that it was impossible that the President could have received your note, or concealed it from the Public. The Government of the United States, pure in its principles, just in its objects, and wise in its councils, is also superior to all personalities ; and I wish these may for ever cease ; for sure I am, that from such a source, no good, but infinite injuries, may result to the two Republics. You conceive that your note, which was duly transmitted by the Envoys to the Government, when published, will efface from the minds of the american people their unfounded inquietude. Of this I can form no judgment ; but before you addressed that note to the Envoys, the proposition therein contained had been made to me to treat separately, and I had stated, that the measure was in itself impolitic, and as it respected myself, impossible.

I have nevertheless, contrary to my wishes and interests, complied with your subsequent proposition for remaining here to prevent a rupture. I have been happy, since, by your repeated assurances, that this government was sincerely disposed to reconcile all differences between the two countries, and probably would soon make an arrangement adequate to the object : indeed I had great reason to hope, that I should have been furnished with a copy of it, before my leaving Paris, and I earnestly wished it, lest the disappointment which might result from my return to the United States without it, should produce unhappy effects ; but the vessel in which I am to embark being ready for sea, waits only for my arrival at Havre with the requisite documents for the voyage.

The sincerity of the disposition of the United States, to meet this Government on the ground of the existing treaties between the two countries, and to do justice to France, as well as to receive it from her, is too evident to admit for a moment of the least doubt ; but I again repeat, that I have no powers to enter on the

negotiation. Nevertheless the proposed arrangement might be made by this government, and a minister be sent to America to compleat it ; as it is of little consequence to either, in which nation the negotiation is concluded, but of great importance to both that it should terminate in an immediate accommodation, and in the restoration of their friendship. I presume, that in this our wishes are alike sincere and ardent, and that the magnanimous policy of this government to persevere in the intention to reconcile, with sincerity, all the differences between the two countries, will have a speedy and happy effect.

Accept, Citizen Minister, the assurances of my perfect respect.

(Signed) E. GERRY.

(No. 16.)

Lettre de M. de Talleyrand, adressée à M. Gerry, en Date du 18 Juin, 1798. Le Ministre des Relations Extérieures commence par rectifier l'Erreur, où M. Gerry paraît être tombé par Rapport à la Publication de la Note de M. de Talleyrand du 18 Mars. Il entre ensuite dans des Explications plus précises au Sujet des Différends entre les deux Nations, comme si M. Gerry était autorisé à recevoir ses Oouvertures. M. de Talleyrand pose en Principe, que toute la Négociation entre la France et l'Amérique roule sur trois principaux Points : 1) SUR DES DÉCLARATIONS FRANCHES ET AMICALES CONCERNANT DE CERTAINES CIRCONSTANCES, que la Malveillance a dénaturées, ou pourrait mal représenter ENCORE ; telles sont, la Tentative que le Gouvernement Français aurait faite de détacher le Peuple Américain de la Constitution qu'il s'est donnée ; les Assertions de M. Pickering contre la bonne Foi de la France durant les Négociations de 1782 ; la Publication de certaines Pièces et Actes particuliers de certains Agens, que le Gouvernement Français avait désavoués. 2) SUR LA FIXATION DU SENS DE DIFFÉRENS ARTICLES DE TRAITÉS ENTRE LES

DEUX PAYS, ET SUR LA JOUISSANCE ABSOLUE DES DROITS QUI EN DÉRIVENT. *Ces Articles sont relatifs aux Déserteurs ; à la Juridiction des Consuls ; à l'Exclusion des Bâtimens de Guerre des Ennemis de la France des Ports de l'Amérique ; au Droit de décider de la Légalité des Prises et à leur Vente ; à l'Armement des Bâtimens Français dans les Ports de l'Amérique ; à l'Augmentation de la Liste des Objets de Contrebande ; &c.*

3) SUR LA DISCUSSION IMPARTIALE DES DOMMAGES QUI ONT RÉSULTÉ DE LA DÉVIATION DES TRAITÉS DE 1778. *M. de Talleyrand pense que, pour fixer le Sens des Traités, il sera nécessaire de former une Déclaration qui serait regardée comme faisant partie de ces Actes publics, et laquelle, après avoir été ratifiée, serait obligatoire pour les deux Parties. Il finit par faire l'Eloge de M. Gerry qui, par sa prudente Conduite, avait su se préserver des Préventions qu'il était difficile de ne pas contracter, quand on n'était pas en garde contre l'Intrigue étrangère et même domestique. Le Ministre Français est d'Opinion que M. Gerry, au lieu de retourner dans sa Patrie, devrait demander de nouvelles Instructions, et les Pouvoirs nécessaires pour entrer en Négociation et terminer les Différends entre les deux Nations. Il déclare que le Gouvernement Français attendra ce qui désormais pourra lui être adressé au Sujet de ces Ouvertures, et aimera à regarder M. Gerry comme l'Organe de ces Communications.*

(TRANSLATION.)

Paris, 30th Prairial, 6th year. (18th June, 1798.)

*The Minister of Exterior Relations to Mr. Gerry,
Envoy of the United States.*

I have received, Sir, your answer of the 27th of this month to my letter of the 22d. You take the trouble to observe to me, that my note of the 28th Ventose, (18th March, 1798) could not have made a part of the documents communicated by the President of the United States on the 14th Germinal. (April

3d, 1798). Do me the justice to believe, that I have not committed this mistake.

You persist in thinking, that your powers and your instructions do not permit you to proceed to the conciliating of the differences between our two republics. You even announce to me positively your departure for the United States, in the vessel which your government has dispatched to Havre. I should have presumed, that after having received and transmitted to Philadelphia my note of the 28th Ventose, that one of the envoys, whose impartial dispositions appeared to promise a reconciliation, would wait at Paris for further instructions and powers, if he had need of them. It even appears to me that these documents cannot now be long in reaching you, provided your government is as averse to a rupture as you assure me. The part you take tends to give room to conjecture, that the vessel arrived at Havre, has only brought you orders, similar to the acts of which I complained on the 22d of this month.

Nevertheless, Sir, such is the sincerity of the assurances which I have given you in the name of the Executive Directory on the 28th Ventose, and which I have since repeated to you, notwithstanding the most irritating provocations, that I do not hesitate to explain myself to you, as if you were in a situation to receive my overtures.

All negotiation between France and the United States must essentially rest upon three principal points.

1. Frank and amicable declarations concerning certain circumstances, which malevolence has, and may yet misrepresent.

It is utterly false, notwithstanding the public and private insinuations which have been made, in private writings, and in solemn acts, that the French Government has ever sought to detach the people of the United States from the constitution they have given to themselves. It has complained of the American Government, but to the government itself. Justice demanded,

that it should render homage to the sympathy of a free people for the cause of liberty ; and it did not go farther.

The Secretary of State, Mr. Pickering, has inserted in his public letter to Mr. Pinckney (of the 16th Jan. 1797) assertions against the good faith of France in the negotiations of 1782, which have no other foundations than the interested communications of the english negociator. It is a long time that this insidious weapon, forged by the enemies of France, has been used in the dark.

It is of importance to the two countries, to understand each other equally concerning the true value of several documents published, as emanating from the French Government, and of the private acts of certain agents, whom it has disavowed. In effect, it is only by destroying all the germs of distrust, that a good understanding can re-appear and continue hereafter without being obscured.

2. Fixing the meaning of several articles of the treaties between the two countries, and the absolute enjoyment of the rights which flow from them.

Long before the war, the 9th and 12th articles of the convention of the 14th of November, 1788, the first relative to deserters, and the second relative to the jurisdiction of the consuls, were a continued source of alterations. They have become completely null by interpretations foreign to their manifest intent. It is necessary to perfect them. By the 6th article of the treaty of alliance, France has renounced the Bermudas, New Brunswic, Nova Scotia, Cape Breton, Canada, in other words, it has renounced the procuring for itself of one of the ports, which would have been so necessary for it to possess for the protection of its sugar islands. It devoted, in preference, the effort of its arms to the defence of the United States. It was understood, that it should find proportionable advantages in their ports. One of these advantages is found implicitly in the 17th article of the treaty of commerce of the same

day. The french ships, public and private, may freely enter into the american ports with the prizes which they may take. The ships, public and private, of the enemies of France, who may have taken prizes from it, shall not, on the contrary, have any asylum in those ports. Such is the literal sense, such is the intended sense. Does good faith permit a distinction between the vessels of the enemies of France, who leave their prizes without the port, and those who come in with them? Can it be decided, that the latter only should be excluded, without evidently violating the clause of the treaty which is the most important to France? Can it be invalidated by subsequent engagements? Doubtless not.

In virtue of the same 17th article, no authority whatever of the United States is permitted to interfere with the prizes taken by french ships public and private. The captains are bound only to shew their commissions, because it is necessary to be able to distinguish the pirate from authorized vessels. It is also lawful to demand the release of a prize taken within the extent of the jurisdiction, that is to say within the reach of cannon-shot. But what abuse, what vexations, what odious chicanery, have flowed from the deviation from the meaning of the article? The government of the United States has rejected the precautions suggested to remedy the evil. Experience has shewn, that without those precautions the article is illusory.

The United States permitted the sale of french prizes until Prairial, 4th year (May, or June, 1796). At this period, the supreme court decreed the revocation of this advantage, in virtue of the 24th article of the treaty with Great Britain. The 27th article, nevertheless, adds, that that treaty shall, in no respect, alter those which the United States may have previously contracted. But the liberty, enjoyed by the french vessels of war of selling their prizes, is derived from 17th and 22d articles of the treaty of commerce of the 6th February, 1778. The 17th article would be of little

value, if it were confined to the right of asylum. The 22d article would be mere surplusage, if it did not declare a right for the French and an interdiction for their enemies. Great Britain obtained a similar right only on condition that it should be without force in all cases wherein France should be interested. When the United States concluded their treaty with Holland in October, 1782, the memory of the treaty of 1778 was not yet weakened; and the exclusive privilege of the 22d article of the latter is formally acknowledged in the 22d article of the former.

The same 22d article of the treaty of 1778, must be appealed to against the refusal given to french vessels of war to make any change of their armament in the United States. If the desire to prevent the disorders, of which the American Government complained, induced the committee of public safety, in the beginning of the 2d year, to cause all original armament in the name of the republic, in the United States, to be stopped, it did not intend that the abandonment of a doubtful pretension should carry with it that of an explicit right.

In the 23d and 24th articles, France and the United States have agreed, that the neutrality of the flag should determine that of the cargo, and have contracted the too extended catalogue of contraband merchandize. It would have been pleasing to the republic to see in general prevalence, a system conformable with sound justice, and which it flatters itself one day to extend. But how could the obligation remain reciprocal between it and the United States, when there no longer remained a parity of situation.

The English Government has abused the liberality of France to her injury, since the commencement of 1793, and has not even spared american cargoes bound to french ports. Principles, contrary to those which influence the republic, have been consecrated since, in the 17th and 18th articles of the treaty of London. It is doubtless a forced concession on the part of the United

States, who until then made it their glory in all their treaties, to aim at the liberty of the seas ; but finally, it is a concession made by them in favour of England. France ought to enjoy it, in virtue of the second article of the treaty of Paris : its regrets cannot render it insensible to its rights.

It ought in virtue of this second article, which renders immediately common to it, every favour, accorded by the United States to any nation whatever, to claim some other parts of the treaty of London.

3. The impartial examination of the damages which have resulted from the deviation from the treaties of 1778.

The treaties which bind the two nations, have been insensibly rendered insignificant by sophistical interpretations. The clearest clauses have been finally denied. The American Government has never paid regard to the successive complaints of the Ministers Plenipotentiary of the Republic. It has never admitted them to enter into conference on this subject. It has always taken upon itself to decide ; although in every reciprocal contract, neither party possesses the exclusive right of interpretation. After having exhausted itself in representations, the French Government was obliged to cause its complaints to be unfolded for the last time, on the 25th Brumaire, 5th year (Nov. 15, 1796). Stripped of the advantages which the most sacred, the most liberal treaty assured to it, it has been forced, in order to bring the United States back to their obligations to France, to imitate the conduct which England pursued previously to the treaty of London.

That court moderated its measures, after its object was accomplished : the present complaints of the United States might have been prevented, if those of the French Government had been attended to. The complaints which the United States now make, are, in fine, only the consequence of a state of things which has cost the French Republic and its citizens, the most considerable damages. The French Government, nevertheless, has not ceased

to offer the exact justice which it demands. It has never refused, and never will refuse, to enter into discussion upon every proper subject.

I have given, Sir, to these three points a large developement. We are very near an agreement, when we really desire it on both sides, and when we candidly admit the state of the question. You see the negociators require very general instructions, in order to obviate the inconveniences which are prolonged even until now. I believe, to fix the meaning of our treaties, it will be proper to draw up a declaration concerning it, to be hereafter obligatory on the two parties, and considered as making a part of the original acts; a declaration which, that it may have the force of law, should be established by the ratifications, which the constitutional forms respectively require.

The United States are placed in that happy, unconnected state, which makes them, doubtless, set a particular value upon the clauses of their treaties, relative to their commerce and navigation. It is the effect of the long neutrality which they have the hope of maintaining. But France, although firmly determined, since it has become a republic, to live in peace with all nations, cannot flatter itself with escaping the scourge which periodically torments Europe; and prudence requires that it preserve the rights which treaties secure to it, in neutral ports, in time of war. With this double view, the american negociators digested the treaty of commerce of 1778. Although it be reciprocal upon the whole, some provisions are more especially applicable to the fixed position of the United States; and others have allusion only to the eventual position of France. The latter has made great sacrifices for the independence of the former. France has stipulated few advantages, advantages which do not, in any respect, injure the United States, and the lawfulness of which no foreign nation can contest. The French Republic will never renounce them.

It is now in the power of the United States to realize the dispositions which you manifest in their name. The

prudence of your connexions in France has preserved you from the prejudices which it is difficult not to contract, when one is less on his guard against foreign and even domestic intrigues. I persuade myself that you will transmit to your government only accurate documents. It will belong to it to pursue the best measures to effectuate a prompt reconciliation; and I ardently wish, that they may correspond with the wish of the Executive Directory.

I continue, however, to think, that instead of returning to the United States, it would be preferable that you should ask for the instruments necessary to the negotiation. Nothing could more accelerate the drawing together of those ties, which the French Republic and the true Americans have regretted to see relaxed. Your presence at Paris, if the powers, which must be supposed to be on the road, should soon arrive, may momentarily accomplish the object which we both ambitiously pursue.

Your departure, on the contrary, will give a new activity to the plots laid for precipitating the two countries into measures which are as repugnant to their inclination as to their interests.

The French Government being, besides, penetrated with the same sentiments, which you testify, will hereafter wait for what may be addressed to it, and with pleasure will behold you as the organ.

Accept, Sir, the assurances of my perfect consideration.

(Signed) CH. MAU. TALLEYRAND.

(No. 17.)

Réponse de M. Gerry à la précédente Lettre de M. de Talleyrand, en Date du 22 Juin, 1798. Après être revenu sur l'Erreur au Sujet de la Non-Publication de la Note du 18 Mars, le Ministre Américain donne à entendre à M. de Talleyrand, que son Départ pour l'Amérique ayant été fixé au Mois de Juin, il avait espéré de recevoir des Propositions conciliantes de la Part du Gouvernement

Français, pour en être le porteur au Gouvernement Fédéral, et pour que le Ministre de France qui serait envoyé à Philadelphie eût pu terminer la Négociation. Mr. Gerry s'engage à transmettre exactement à son Gouvernement la dernière Lettre de M. de Talleyrand, et souhaite que le Mode de traiter, qui y est proposé, réussisse. Quant aux Articles des Traités, sur lesquels les deux Gouvernemens ne sont pas d'Accord, M. Gerry propose d'avoir Recours à l'Arbitrage, aucun des deux Gouvernemens ne pouvant s'arroger le Droit de l'Interprétation exclusive. Il déclare qu'il lui est impossible de demander de nouvelles Instructions à son Gouvernement, et que, s'il en recevait, il refuserait même de se charger de la Négociation; qu'il sera cependant bien aise de pouvoir, de toute autre Façon, contribuer à l'Accommodement des Différends entre les deux Nations. Son Retour en Amérique est indispensable; les Relations entre les deux Etats seront cependant conservées par les Consuls respectifs.

Paris, 22d June, 1798.

I received, Citizen Minister, on the evening of the 20th instant, your letter of the 30th Prairial (18th of June) in answer to mine of the 13th. You say you have not made the mistake, respecting your letter of the 28th Ventose. I am not disposed to impute to you a mistake, if you have not made it, although I think that your letter will warrant the construction that I gave it; be this as it may, justice requires that the President of the United States should be free from the imputation of having concealed official communications, when he had published all which it was possible for him to have received.

You should have presumed, as you state, that after having received and transmitted to Philadelphia your note of the 28th Ventose (the 18th of March,) I would wait at Paris for instructions, and further powers, if necessary. But I had a right to expect, from what had passed between us before the arrival of the brigantine

Sophia, and indeed after it, that I should have received, for the consideration of the Government of the United States, propositions on the part of this government, for reconciling the differences and restoring friendship between the two republics ; that I should, ere this, have been on my passage to the United States ; and that a french minister would have been sent to Philadelphia, to complete the negotiation.

I accordingly informed you, before the arrival of the brigantine, that I should embark for America in June ; and, after her arrival, that I should take my passage in her, as soon as she could be fitted for the sea.

You have stated and developed, three points, on which you conceive the negotiation between France and the United States ought essentially to rest. Your letter on this subject I will carefully communicate to my government : and if, after the voluminous official discussions on the part of each of the republics, of the subjects in dispute between them, you conceive, that a reconciliation will be best promoted by this mode only, I sincerely wish it success.

You say, that France, in her treaty with the United States, has stipulated few advantages, which in no wise injure them, and the legality of which cannot be contested by any foreign nation. You then add, that the French Government will never renounce them.

The Government of the United States never desired of France a renunciation of any right, to which she is entitled by their existing treaties : in construing some parts of these, the two governments have different opinions ; but this is not unusual between nations ; and when they are amicably disposed, and governed by the principles you have justly laid down, that neither party has the right of exclusive interpretation, they are generally successful, if direct measures fail, in adjusting their disputes, by arbitration : this mode has been successfully adopted by the United States with other nations.

My connexions in France, Citizen Minister, have neither preserved me from, or subjected me to, preju-

dices. I am governed by my own principles, those, you may be assured, will always prompt me, in the discharge of my duty, to present to my government exact documents and statements of facts.

It is impossible for me to apply to the government, for the necessary instruments to conduct the negotiation. On the other hand, should such a proposition be made to me, I should certainly, under existing circumstances, decline it ; nevertheless I again assure you, that it will give me the greatest pleasure, if, by any other means, I can contribute to a just and honorable accommodation of the differences between the two republics.

My return to the United States, which is indispensable, cannot, as I conceive, be attended with the effect you mention ; more especially as the connexion between the two countries will be still kept up by their respective consuls.

Accept, Citizen Minister, the assurances of my perfect respect.

(Signed) E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

No. 18.

*Lettre de Mr. Gerry à M. de Talleyrand, en Date du 25
Juin, 1798, pour réitérer la Demande de ses Passeports.*

*Mr. Gerry, to the Minister of foreign Relations of the
French Republic.*

Paris, 25th June, 1798.

Citizen Minister,

I am again under the necessity of applying for necessary documents to enable me to return to the United States ; and as you cannot be insensible of the manifest disadvantages on my part resulting from the delay of them, I presume that they are now in readiness.

Accept my assurances of esteem and respect.

(Signed) E. GERRY.

No. 19

Réponse de M. de Talleyrand du 27 Juin, 1798, à la Lettre de M. Gerry du 22 Juin. Le Ministre des Relations Extérieures indique l'Omission qu'il avait reprochée au Gouvernement Fédéral par Rapport à la Publication de la Correspondance des Ministres Américains ; c'est la Suppression de la Proposition qu'il avait faite de traiter séparément avec M. Gerry. Mais M. de Talleyrand est d'Avis de mettre Fin à une Discussion aussi inutile, et de reprendre plutôt celle des grands Intérêts des deux Etats. En Réponse à l'Observation de M. Gerry, que la Négociation avait éprouvé tant de Délais, M. de Talleyrand soutient que la Négociation ne date que du Départ des deux autres Envoyés ; il conjure M. Gerry de rester à Paris et lui représente la Nécessité de cette Détermination sous tous les Rapports de sa Situation. Il l'invite à continuer la Discussion ; il fait voir que des trois Points qu'il a indiqués comme Bases de la Négociation, le Second est le plus essentiel, le Premier pouvant être différé, et le Troisième ne paraissant pas devoir rencontrer de Difficultés après la Fixation du Second. Il propose donc, en déclinant l'Arbitrage mentionné par M. Gerry, de discuter successivement les différens Articles des Traités qui exigent d'être déterminés plus précisément ; il commence par l'Article 9 de la Convention Consulaire, en adressant à ce Sujet une Note à M. Gerry, et en s'engageant à la faire suivre d'autres sur les autres Articles de Traités qui demandent d'être expliqués.

(TRANSLATION.)

Exterior Relations.

Paris, 9th Messidor 6th year.
(27th June, 1798.)

*The Minister of Exterior Relations to Mr. Gerry,
Envoy of the United States.*

In answering, Sir, your letter of the 4th of this month, (22d June, 1798) I regret that I am obliged to recur to

the first paragraph. I complained that the publications made at Philadelphia on the 19th Germinal (8th April, 1798), did not contain all that your government then knew. You supposed that I alluded to my note of the 28th ventose (18th March), which could not however have reached the president. I begged you not to attribute that mistake to me. You appear to adhere to your interpretation. From respect to your sincerity of which I cannot doubt, I will surmount my repugnance to minute digressions, and will point out to you that one of the concealments which is the most striking.

I have been furnished from the United States with the clearest proofs, supported even by articles extracted from the american papers, of the knowledge which subsisted there before Germinal (before the 21st of March) of the objections of the Executive Directory to any negotiation with two of the envoys, and of its *express desire of treating with you*. In effect I early testified to you these dispositions ; and the declaration on this subject inserted in my note of the 28th Ventose (18th of March) was only the official expression of a thing already comprehended as well at Philadelphia as at Paris.

For the rest, Sir, let us hereafter pass over these useless episodes, and let not our communications further bear the tint of recrimination. Those who are truly impartial will, perhaps, discover a degree of generosity in this proposition coming from my side.

Let us seriously resume our explanations. It is for facts to prove the reality of the intentions professed on both sides. My last letter attested to you very forcibly those of the Executive Directory. You do not allow those of the President of the United States to be doubted. How then happens it, that after having received propositions, wherein every thing is combined for a frank and prompt conciliation, you in some sort shut the door against all future advance ?

You seem to insinuate, that these propositions have long been delayed. They could not have been made until after the departure of your colleagues : the first open

negotiations upon the differences which subsist between the two countries take their date only since that recent period: nothing was entered upon as long as the three envoys were present : one alone manifested a temper of reconciliation. Afterwards, some time was necessary to unite the views you suggested with the determination of the Executive Directory, to place the respective interests in front. I did not, above all partake in your opinion concerning the utility of your carrying the overtures of the French Government personally to Philadelphia ; and I never thought it advantageous to send thither a minister plenipotentiary from the republic, before the happy issue of the negotiations commenced. I was, nevertheless, about to transmit the result of my reflections in the beginning of Prairial (between the 20th and the last of May) when the incident happened, which for a moment suspended the principal object. I do not see what delay I could have prevented. I am mortified that circumstances have not rendered our progress more rapid, and it is in order to accelerate it, as well as to obviate every new casualty, that I have pressed you in my last letter to remain at Paris.

Did you not come here, Sir, to establish friendship between the two republics, and determined to spare nothing to attain this end, as desirable to the United States as to France ? Do not the full powers given to the envoys authorize them to negotiate separately ? Is it after what has passed at Philadelphia that you can withdraw yourself ? Ought you to do so when the French Government, superior to all resentments, and never listening to any thing but justice, manifests itself anxious to conclude a solid and mutually satisfactory agreement ? I have invited you to request promptly new powers, if you thought you stood in need of them, and they were not on their passage. You answer, that this step *is for you impossible, and that you would, besides, under existing circumstances, decline taking upon yourself the conducting of the negotiation*, if it was confided to you. I cannot reconcile this language with the avowed object of your voyage to France, with your full powers, with your attachment to

your country, with the assurances you do not cease to give of the sincerity of your government.

I commend these observations to you, Sir; reflect on the possible consequences of your departure, and judge for yourself, whether he who truly wishes for peace ought to consent to it.

Let us continue more and more to advance the work we have entered upon. I may almost venture to say that it is your duty. The propositions which I have made to you embrace three points. The first will take but little time, and may be postponed.

The third will doubtless experience no difficulty on either side, after the second shall be amicably settled.

It is to the second therefore that we should first attend, and it is so much the more important, as it embraces the source of all our differences. A calm and candid discussion will successively clear up every article of them. I do not see that the voluminous discussions which have been entered into at Philadelphia have shed any light upon it. They have rather contributed to set up the passions in the seat of reason. Ours shall always be followed by a conclusion either in the cessation or admission of the right reclaimed. It is necessary, in order to effect the act declaratory of the meaning of our treaties. As to the eventual arbitrament of a third power, I do not know whether the United States have sometimes had recourse to it. The French Republic has never experienced the want of it, and I am persuaded, that on this particular occasion, it will readily come to an understanding with the United States, if they are determined to be just towards it, as it desires to be towards them.

Let us begin with the ninth article of the consular convention of the 14th Novr. 1788. I annex a note upon the difficulties its execution meets with in the ports of the United States. It shall be followed by similar notes, upon each of which we will endeavour to come to an agreement.

Accept, sir, the assurances of my perfect consideration.

(Signed)

CH. MAU. TALLEYRAND.

(*Incluse du No. 19.*)

Note sur l'Article 9 de la Convention Consulaire, du 14 Novembre 1788, relativement à la Compétence des Juges pour l'Arrestation des Matelots et Marins Déserteurs ; et concernant la Validité de la Copie du Rôle d'Equipage. M. de Talleyrand propose les Changemens à introduire à cet Egard dans cet Article.

(TRANSLATION.)

Note upon the 9th Article of the Convention between France and the United States of the 14th Nov. 1788.

The beginning of this article declares, "that the consuls and vice-consuls may cause to be arrested the captains, officers, mariners, sailors, and all other persons, being part of the crews of the vessels of their respective nations, who shall have deserted from the said vessels, in order to send them back and transport them out of the country. For which purpose the said consuls and vice-consuls shall address themselves to the courts, judges and officers *competent*."

Before 1792 it frequently happened that the judges acting under the authority of the individual states have pretended, that they were incompetent. On the 14th April, 1792, an act of Congress declared, that the district judges, acting under the authority of the United States, should be *competent*. All the judges of the individual states have since thought themselves justified in declining to render their aid ; but as there are many more ports in the United States than district judges, and as they do not always even reside at a port, the french consuls and vice-consuls have often been unable to hinder desertion; to the great detriment of the vessels of their nation. The consuls of the United States do not experience those difficulties in the ports of the Republic. Reciprocity, as well as the meaning of the article, require, that it should be declared, "that all the officers of justice having power to order the arrest of mariners, shall

be considered competent, and as such bound to comply with the request of the consuls, in the manner, and in the cases stipulated."

The article proceeds, "and shall demand the said deserters in writing, proving by an exhibition of the registers of the vessel or ship's roll, that those men were part of the said crews."

The mariners have often waited till the departure of their vessel to desert, and have afterwards not only braved the authority of the consul, but served to debauch other crews. It has often been sufficient for them to go from one port to the nearest neighbouring port, to be secure from all pursuit. The consul being no longer able to produce the roll, with ease, or not having it in his power to detach it from the vessel, where it should remain, is no longer admitted to make a claim. He in vain produces a copy of the roll made in chancery and duly authenticated: no faith is ascribed to it, notwithstanding the tenour of the first paragraph of the 5th article of the convention; it is maintained, that the original roll is necessary; and thus the spirit of an important stipulation is destroyed, by the ambiguity attributed to the letter. It would be requisite to declare, that, "by register or ship's roll, not only the original is understood, but every authentic copy or extract, certified to be conformable to the original, by a judge of the country, before the departure of the vessel, and that this extract or copy shall have, in all the ports of the respective powers, the same force with the original, for three months."

Paris, 9th Messidor, 6th year.

The Minister of Exterior Relations.

(Signed)

CH. MAU. TALLEYRAND.

(No. 20.)

Lettre de M. Gerry à M. de Talleyrand, en Date du 1 Juillet 1798. M. Gerry revient à la Charge pour disculper le Gouvernement Fédéral du Soupçon d'avoir supprimé des Faits qui lui eussent été connus, lors de la

Publication de la Correspondance des Envoyés ; il cite en Preuve de sa Modération personnelle le Silence qu'il avait gardé au Sujet d'une Publication anonyme, mais apparemment officielle, du 7 Juin, dans laquelle le Gouvernement des Etats-Unis, les Envoyés Extraordinaires, et lui en particulier étaient insultés ; il soutient que la Voie de la Reconciliation n'est pas fermée ; mais qu'il a tout fait pour remplir sa Mission ; il avoue que ses Pouvoirs auraient été suffisans pour traiter séparément, si ses Collègues avaient été rappelés ou que, par quelque Empêchement personnel, ils eussent été incapables de vaquer à leurs Fonctions, mais qu'après leur Renvoi par le Directoire le Cas était différent ; il prétend n'avoir pas proposé l'Arbitrage d'une troisième Puissance, mais qu'il a entendu parler de la Décision des Différends par des Commissaires. Enfin M. Gerry en déclinant constamment d'entrer en Matière, renouvelle la Demande de ses Passports avec toutes les Instances possibles.

Mr. Gerry, to the Minister of Foreign Affairs of the French Republic.

Paris, 1st July, 1798.

I have received, Citizen Minister, on the 11th, your letter of the 9th Messidor : (27th of June) but without an answer to mine of the 25th of June, or the documents therein demanded for my voyage to America. You say, " they have furnished you from the United States, with the most clear proofs, supported even by articles extracted from the american papers, of the knowledge which they had there before Germinal (20th of March) of the objections of the Executive Directory to any negotiation with two of the envoys, and of its formal desire to treat with me." Admitting this, it does not prove to my mind, that the President of the United States had received official communications and concealed them ; but it is a convincing proof, that the information of these facts must have

been sent from hence to the United States, when secrecy respecting them, imposed upon me previously to their communication, was strenuously insisted on.

You have made what you consider a generous proposition, that our communications should not be tinged with any more recriminations : is the subsequent part of your letter altogether free from them ? My silence on the abuse offered to the Government of the United States, its envoys in general, and myself in particular, in an anonymous, but apparently official publication of the 7th of June, must afford you unequivocal evidence that I had already adopted the measure you have proposed.

It is inconceivable to me, that being without powers to negotiate, my return to the United States, after such long notice, can be supposed in any degree to close the door to subsequent steps for a reconciliation. The door has always been, and still is, open on the part of the Government of the United States. It is impossible for any government to exceed it, in the moderation and justice of its measures towards France, or in its perseverance and patience to execute them ; but it having failed in two attempts, will not France make one effort to obtain a reconciliation between the two republics ? Consider the disagreeable predicament in which the Government of the United States has been involuntarily placed, and it is conceived, you cannot fail to see the propriety and policy of this measure. I have, in my last letter, stated to you truly what I conceived was well understood between us, respecting my return to the United States with the overtures of France, and her sending a minister there to complete the negotiation. How we could misunderstand each other on these points, is to me incomprehensible. Be this as it may, it is not very material who is to be the bearer of the propositions, if they are such as can be accepted by the United States.

You enquire, whether I am not come to establish friendship between the two republics, and determined to

spare no pains to attain this desirable end? Judge, yourself, Citizen Minister, whether I have not faithfully discharged my duty in this respect.

You ask, whether I am not authorized to treat separately? Had my colleagues relinquished their office, been recalled, or by physical means been disqualified to act, my powers would have been adequate to a separate negotiation, and I would have entered on it without delay. As matters are circumstanced, I have no such powers. You differ from me in opinion on this subject, but I must abide by my own judgment.

You declare that France, superior to all resentment, and only listening to justice, manifests a zeal to conclude a treaty, solid and mutually satisfactory. Be assured, Citizen Minister, that the United States will with ardour meet such a disposition on the part of France; and that it cannot fail of success, if accompanied with a suspension of the long and ruinous depredations on our commerce, and with proper arrangements for a negotiation. In my last letter, you will perceive, that having particularly referred to the mode adopted by the United States with other nations, I could only allude to that of deciding, by commissioners, disputes which could not be adjusted by direct means. You have misconceived my intention, if you supposed it extended to the eventual arbitration of a third power.

My frequent applications for a passport, letter of safe-conduct for the vessel, and her exemption from the embargo at Havre, have been altogether unnoticed. I hope you will not by the continuance of this unusual mode of conduct, render an explanation of it immediately necessary.

Accept, Citizen Minister, the assurances of my perfect respect.

(Signed) E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

(No. 21.)

Lettre de M. de Talleyrand à M. Gerry, en Date du 6 Juillet 1798. Le Ministre des Relations Extérieures revient à Regret sur la Discussion au Sujet de la Connaissance qu'on aurait eue à Philadelphie, le 21 Mars, de l'Intention du Directoire de traiter avec M. Gerry, tandis que le Gouvernement Fédéral publiait que la France refusait de négocier; et il réfute l'Assertion de M. Gerry que depuis que l'Amérique eût fait deux Tentatives de s'accorder avec la France il appartenait à la dernière de faire à son Tour un Effort pour la Reconciliation entre les deux Etats. Engagement à éviter désormais dans cette Correspondance les Reproches et les Récriminations, quelles que soient les Provocations que l'on trouverait dans les Documens Américains, et dans les Discours des Orateurs du Congrès. M. de Talleyrand observe que M. Gerry, dans sa Réponse, n'a point fait mention de la Note qu'il lui avait transmise le 9 Messidor (27 Juin); Circonstance qui lui avait fait différer l'Envoi des Notes subséquentes, dont il lui en adresse maintenant deux sur deux Articles de la Convention Consulaire. Il presse M. Gerry de rester en France, et d'entamer la Négociation, puisqu'aucun de ses Actes ne serait obligatoire pour le Gouvernement Américain qui avait toujours le Pouvoir de ratifier; il fait entendre qu'il ne convient plus d'envoyer en Amérique un Ministre Français, et il soutient qu'il est contre l'Usage reçu qu'un Ministre parte sans avoir notifié qu'il en a reçu l'Ordre, et M. de Talleyrand démontre que l'Usage veut plutôt que, s'il y a des Doutes au Sujet des Pleins-Pouvoirs, le Ministre attende la Décision de son Gouvernement sans rompre la Négociation.

(TRANSLATION.)

Ministry of
Exterior Relations.

Paris, 18th Messidor, 6th year of the
French Republic (July 6th, 1798).

*The Minister of Exterior Relations, to M. Gerry,
Envoy of the United States.*

I have received, Sir, your answer of the 13th of this

month, to my letter of the 9th. I will not conceal from you, that this kind of correspondence gives me the more pain as it injures the progress of our business.

It is clear, that *before Germinal* (before 21st March) the intentions of the Executive Directory could not be known at Philadelphia, but by communication from Paris; but I attest, that they did not proceed either from the French Government, or its agents, or from any one whatever to my knowledge.

In the mean time let us admit the gratuitous supposition that you make on this subject. Is it, therefore, less true, that my overtures to treat with you were known in the United States, when it was there declared, that France refused all negotiation?

You tell me, that the United States having been twice baffled in their attempts, it belongs to France to make an effort in order to effect a reconciliation between the two republics. What name, therefore, do you give to the indefatigable zeal which I manifest to smooth all the difficulties, and bring about an honorable accommodation? It is a genuine effort, Sir, the merit of which might be better appreciated. What, on the other hand, are the two attempts of the United States? I know of no other mission on their part, in consequence of the declaration made at Philadelphia, on the 25th Brumaire, 5th year, (Nov. 15th, 1796) than that confided jointly, and separately, to Messrs. Pinckney, Marshall, and yourself. I will not re-trace the causes which have prevented the envoys collectively from attaining the most complete success: but I will affirm, that they are foreign to the French Government, and that in any state of the cause, it depends upon you to fulfil the expectation of the two countries.

You deny, Sir, that there was some generosity on my part in proposing to you to banish hereafter, from our communications, all useless episodes, and especially no longer to give a place in them to recriminations. This is another episode; but since you force me to it, it is

necessary that I should explain myself more fully. If now and then some anonymous publications, of a nature disagreeable to the American Government, have crept into the french papers, it would not become it to complain. For a long time, certain papers of the United States, the editor of one of which is the printer of the senate, daily spread abroad the most atrocious calumnies, the most injurious insinuations, the most base reflections upon the french people, their institutions, their government, their legislators, the heads of their executive, their ministers, their agents, their glorious defenders. Yes, those same warriors, who respect their enemies, receive the most ignominious appellations among a friendly people for whom many have combated. Nay, more; within the very walls of the national representation of the United States, how many deeply-insulting speeches have been, and yet are, delivered. Nothing is spared in order to endeavour to degrade the French Republic in the opinion of the american people; and the silence of your government leaves an open field to this torrent of invectives, whilst scarcely now and then a word of reply escapes, notwithstanding our vigilance, from the indignation of some french citizen. Is it not repeated in the United States, that the Executive Directory repels negotiations in order to wait an opportunity of carrying the war there? This odious assertion has been credited; and your government, which ought to know that such a thought was never conceived, opposes no corrective to the impression which it is calculated to make. Whatever may be your opinion of it, Sir, it is generous to stifle all the sentiments which arise in abundance on reading your public papers, and even the debates of your legislature on the subject of France. And yet until the two governments shall be so far reconciled, as to concert the means of remedying these abuses, it is expedient that those who are to treat upon the interest of the two nations adopt a conciliatory language, and hereafter avoid what may give rise to painful recol-

lections. I repeat to you, that it is my desire ; that I will set the example ; that I am impatient to abjure reproaches ; and that I insist that this point may be well understood.

This is the last time I shall yield to these digressions, which ought to be as disagreeable to you, as they are to me.

You have not transmitted to me any opinion, sir, upon the note annexed to my letter of the 9th of this month. I have delayed until now sending you the following ones. I flatter myself that the long conference which I have had with you, will have produced some modification of the resolution in which you might appear to persevere. I therefore recommend to your attention two fresh notes, one upon the 12th article, and the other upon the sixteenth article of the convention of the 14th Novr., 1788. They contain every thing which it is important to explain at present, in relation to this act. We will immediately after proceed to the treaties of February, 1778. You desired that I might send you some propositions. I did so on the 30th Prairial (18th June), and you should have had them sooner, had it not been for the incident which has happened. I have therein traced the plan of the negotiation. I have therein pointed out generally the intentions of France ; I have therein entered into an engagement to discuss every proper subject ; I have assured you that the Executive Directory would render to the United States that justice which it expects itself : I have excluded nothing which we can suggest on either side, to strengthen still more the good understanding between our two republics.

But it is not enough to transmit these propositions to your government ; they are only the foundation of the necessary discussions upon every question of detail of which we ought to find the solution. The reconciling of the different points upon which we will have fixed our ideas, will form the act to be drawn up. I do not think that we could come to conclusions in any other manner. It even appears to me, that there will be an

evident loss of time, if in the state of things, this discussion is adjourned. I have already given you to understand, that it would be inconvenient to give it in charge to a minister plenipotentiary at Philadelphia. Circumstances have rendered this inconvenience more important, and I will not conceal from you that I should fear fresh incidents.

I therefore urge you more pressingly than ever, sir, whilst I refer to what I have already written to you on this subject, to postpone your departure, and to attend quickly to the discussions which I urge. I know that you are not of the same opinion with me, with respect to the validity of your full powers; but reflect, that in any case, you can in nothing bind your government, which has reserved the right of ratifying.

I will add, that in the situation in which you stand, it is contrary to all usage to depart, without notifying that you have received an order therefore; that the usage on the contrary is, when a doubt is raised upon the full powers, the envoy waits the decision of his government, without breaking off the negotiation.

Receive, sir, the assurance of my perfect consideration.

(Signed)

CH. MAU. TALLEYRAND.

(Première Incluse du No. 21.)

Note sur le 12ème Article de la Convention du 14 Novembre, 1788. Sur le Sens littéral et implicite de cet Article, concernant la Juridiction des Consuls, et l'Exécution de leurs Arrêts.

(TRANSLATION.)

Exterior Relations.

Note upon the 12th Article of the Convention between France and the United States, of the 14th Nov. 1788.

This article has been executed in France in its literal meaning, and in its implicit meaning: that is to say, that all the differences between the citizens of the United

States in France, have been left to the decisions of their consuls, and that the sentences of the latter have been executed, when coercion was necessary, in the same manner and by the same officers of justice as the sentences of the french tribunals.

Nothing has been changed, in this respect, since the establishment of the republican form of government, notwithstanding the jealousy which is peculiar to it, and which the judiciary authorities of every country possess in general.

It has been judged, as to the literal meaning, that the jurisdiction given to the consuls of the United States over their countrymen, was not in any respect optional. The 12th article does not declare in effect that all the differences *may be* determined &c., which would imply only a power in persons of the nation to sue before their consuls, and a power in the latter to admit or decline. It declares formally that all differences *shall be* determined &c., which implies a reciprocal obligation upon the persons of the nation and their consuls. This obligation is confirmed by the last paragraph, which pronounces an absolute interdiction upon the territorial officers, civil or military, to interfere in any manner whatever, and consequently obliges the persons of the nation to apply to their consuls, and the consuls to decide their differences.

It has been judged, as to the implied meaning, that the stipulation being express, mutual and guaranteed by the public faith, included within it the engagement to give it effect. It would have been ridiculous to put the citizens of the United States in France under the necessity of referring exclusively their differences to their consuls, and the necessity of taking them up, as the only competent judges, without intending the execution of the sentences. But this execution can proceed only from the territorial power which disposes of the force.

It has finally been judged, that this kind of jurisdiction was not in any respect repugnant to the local sovereignty, because its admission was mutually agreed

upon; that it did not stand in competition with the french tribunals; because it did not embrace objects common to them: that it did not abridge the territorial rights, because it extended only to foreigners.

There has been no reciprocity on the part of the United States, wherein this question has been viewed under a different aspect: and the French Government has constantly received complaints upon this subject. In 1792, attention seemed to be paid to the representations which it caused to be made. An act of congress of the 14th of April of that year, declares, "that in all cases wherein, by any article of the convention, the consuls of France are entitled to aid in the execution of any order, the marshals of the district courts of the United States, or their deputies, should be the officers competent, and should give their aid according to the tenour of the stipulations." The same act having provided, in the preceding paragraphs, for the execution of the 7th and 9th articles of the convention, that which has been just cited, is applicable only to the 12th article, the last of the three which were foreseen, and the only one wherein an order might be issued. But soon afterwards the officers designated, eluded this provision.

Since that time some courts in the United States have declared that they would not take cognizance of actions at law between Frenchmen. These actions have been sustained in other courts, notwithstanding the remonstrances of the defendants. On the other hand the consuls of the republic decided in vain upon the differences submitted to their judgment. One while the justice of the country was refused, by arguing from the tenour of the 12th article, at another time the consular jurisdiction was palsied by arguing from its pretended silence, and sometimes it was entirely forgotten.

It is of pressing importance to put an end to these uncertainties, which are discouraging to the french merchants, and embarrassing to their government, whose protection they claim.

The 12th article of the convention between France

and the United States, gives to the consuls a judiciary authority over their countrymen, to the exclusion of the respective tribunals. This authority is not optional ; it does not derogate from the rights of sovereignty of either republic ; it is founded on a reciprocal agreement ; it is conformable with the principles asserted by the most enlightened writers upon public law ; it meets with no opposition in France, and it ought to be faithfully facilitated in the United States.

The French Government will not insist upon a particular mode of executing the sentences of the consuls in the United States. It asks only the express recognition of the implied meaning of the 12th article, and a promise to provide for it fully at the next session of Congress, in the manner most consonant with the forms used in the country.

Paris, 18th Messidor, 6th year. (July 6th, 1798)

The Minister of Exterior Relations.

(Signed)

CH. MAU. TALLEYRAND.

(Deuxième Incluse du No. 21.)

Note sur le 16ème Article de la Convention du 14 Novembre 1788, concernant la Prolongation de la Convention pour six Ans, et Observations générales sur les Titres et Dénominations monarchiques qui se trouvent dans ce Traité.

(TRANSLATION.)

Exterior Relations.

Note upon the 16th Article of the Convention between France and the United States, of the 14th Nov. 1788, and general Observations.

This article declares that the convention shall be fully and completely executed during the space of twelve years, to be reckoned from the day of the exchange of the ratifications.

The exchange took place in January, 1790, and the term appointed will expire in January, 1802.

It will be proper before that period, to set about the revision of the convention. Many articles require it. The French Republic will shew itself less jealous of the privileges of the consuls, than of the stipulations useful to its merchants and navigators. The United States will, doubtless, be guided by the same laudable views. Two republics will the more readily agree on this subject, as they are founded on the same principles. But it is possible that on the one side or the other the parties may not be prepared at the time fixed for the intended negotiation; that more experience may be desired: or, that they may not even agree as to the best system to be adopted. The French Government proposes, that it be declared, "that on account of the events which have prevented a judgment upon the effect of the present convention, it shall be prolonged for six years after the expiration of the twelve first years, if it be not renewed in the interval."

The French Government also proposes, "that in all quotations of any article of the convention, the denomination of *french citizen* be substituted for that of *subject*; and the words *French Republic* be placed in the stead of *Most Christian King, Most Christian Majesty*."

Paris, 18 Messidor, 6th year. (July 6th, 1798)

The Minister of Exterior Relations:

(Signed)

CH. MAU. TALLEYRAND.

(No. 22.)

Lettre de M. Gerry à M. de Talleyrand, en Date du 10 Juillet 1798. Réplique à la Lettre du dernier du 6 Juillet, par Rapport à la Source, d'où le Gouvernement Fédéral eût pu dériver en Mars la Connaissance des Intentions pacifiques du Directoire; relativement à la double Tentative faite par l'Amérique pour opérer une Réconciliation entre les deux Etats; concernant la Licence des Journaux, et les Discours des Représentans du Peuple en Amérique. Au reste, M. Gerry rappelle à M. de Talleyrand que, n'ayant reçu que six Semaines après la première Demande de ses Passeports, la Note sur la Con-

vention Consulaire, il n'avait pu entrer en Négociation là-dessus, faute de Pouvoirs ; et il finit par observer, en Réponse à la dernière Partie de la Lettre de M. de Talleyrand que, comme il n'avait jamais eu le moindre Doute au Sujet du Défaut de Pouvoirs, et comme il n'avait pas existé de Négociation, il ne pouvait pas y avoir de Rupture de Négociation en Suite de son Départ. M. Gerry renouvelle la Demande de ses Passports, et insiste sur une Réponse définitive à cet Egard.

Mr. Gerry, to the Minister of foreign Affairs of the French République.

Paris, 10th July, 1798.

Citizen Minister,

I received, on the 9th instant, your letter of the 6th, being the 18th Messidor, and shall briefly reply to it.

You inform me, that the communication of the intentions of the Executive Directory, sent to Philadelphia before Germinal, the 20th of March, did not proceed from the French Government, its agents, or any person whatever, to your knowledge : and I affirm, that it did not directly, or indirectly, proceed from me.

The rumour then must have been vague, and could not have merited the attention of the President of the United States ; much less could it have authorized his formal communication thereof to Congress.

The two attempts of the United States to obtain a reconciliation between the republics, to which I referred in my last, were those of the mission of a minister to efface unfavourable impressions, banish suspicions, and restore cordiality between them, and afterwards of the three envoys, whose powers were more extensive. I made no allusion to your conduct ; and, with respect to my own, have done every thing incumbent on me.

You complain, that certain newspapers of the United States, one of which has for its editor the printer of the senate, calumniate, daily, the french people, their in-

stitutions, government, legislators, and others. The envoys, in their letter to yourself, of the 3d of April, have discussed this subject so fully as to leave nothing further necessary to be said thereon.

You also complain of some speeches of the national representation of the United States, degrading the French Republic in the opinion of the american people, and of the silence of our government thereon. The constitution of the United States expressly provides, that the senators and representatives, for any speech or debate in either house, shall not be questioned in any other place. So essential is the freedom of debate to each house, as to be sacredly preserved by the constitution, and to be above the controul of every other department of government. The Government of the United States, on their part, pay no regard to offensive speeches in foreign legislatures ; well knowing, that however amicably disposed governments may be towards each other, such a mode of conduct must be productive of perpetual sources of discord between them.

And now having replied, Citizen Minister, to your observations, on these subjects, I assure you that nothing can be more disagreeable to me than such discussions. I did not give rise to them, and here I shall terminate them.

On the 27th of June, about six weeks after I had demanded my passport, and when my baggage was on board the Sophia, you sent me a note containing some remarks on the consular convention, and expected a formal discussion of them ; to this, without powers, I should not have consented at any time ; I have repeatedly refused it, and must adhere to my determination.

You conclude by observing, that in my situation, which is that of an unaccredited minister, it is contrary to all usages to depart without notifying that I have received orders therefor ; and that, on the contrary it is customary when a doubt arises upon full powers, to wait the decision of the government of which one is the envoy without breaking the negotiation. On my

part, there has been no doubt of a want of powers, and there has not been any negotiation ; there cannot then be a rupture of it by my departure. I am to judge of the necessity of demanding my passport. I now renew my demand of it, and the other documents necessary for the voyage, and request a definitive answer.

Accept, Citizen Minister, the assurances of my perfect consideration.

(Signed) E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

(No. 23.)

Réponse de M. de Talleyrand à la précédente Lettre de M. Gerry, en Date du 12 Juillet, 1798. M. de Talleyrand envoie à M. Gerry les Passeports qu'il avait demandés ; mais il fait un dernier Effort pour persuader ce Ministre à changer sa Résolution de retourner en Amérique. Il fait l'Exposé succinct du Progrès de la Méintelligence entre les deux Etats depuis 1793, et annonce à M. Gerry, dans un P. S. du 15 Juillet, que le Directoire, informé des Démarches et Résolutions hostiles des Etats-Unis, s'est borné à faire mettre provisoirement l'Embargo sur les Bâtimens Américains, et, en déclarant que néanmoins la France est toujours disposée à terminer à l'amiable ses Différends avec l'Amérique, M. de Talleyrand prie M. Gerry de se hâter à porter cette Déclaration pacifique aux Etats-Unis.

Paris, le 24. Messidor (12 Juillet) an 6.
de la République Française.

Aussi long-temps que j'ai pu me flatter, Monsieur, de remplir le voeu du Directoire Exécutif, en m'occupant avec vous à rétablir la bonne intelligence entre la République Française et les Etats-Unis, j'ai fait mes efforts, et dans nos conférences, et dans ma correspondance avec vous, pour applanir les voies, poser les bases, entrer en matière, et vous convaincre de l'utilité de votre présence

à Paris. C'est en votre qualité d'Envoyé du Gouvernement Américain, que je vous recevais, que je vous écrivais : Il dépendait de vous d'être admis publiquement par le Directoire Exécutif. Sans partager votre opinion sur l'altération, que le départ de MM. Pinckney et Marshall apportait à des pleins pouvoirs, où j'ai lu que vous êtes autorisé à traiter séparément, il me paraissait que dans l'hypothèse même où vous vous placiez, vous deviez référer la question à votre gouvernement, et, dans l'intervalle, fixer avec moi, par une discussion calme et amicale, tous les points contentieux de nos différends.

Cette marche était d'autant plus naturelle, que, mettant à part la connaissance précoce, qu'a eue votre gouvernement, de l'offre de traiter avec vous après le départ de vos collègues, ma note du 28 Ventôse (18 Mars), qui a dû parvenir à Philadelphie vers la fin de Floréal, ne laissait plus de doute à ce sujet : elle contient trois objets très-distincts. Elle redresse d'abord, avec la dignité qui convient au Gouvernement Français, l'exposé des griefs des Etats-Unis, rédigé par leurs envoyés dans l'ordre inverse des faits, le 28 Nivôse (17 Janvier) précédent : elle indique ensuite les motifs, qui empêchaient que la négociation ne se fit avec les envoyés collectivement : elle déclare enfin solennellement les dispositions conciliatoires du Directoire Exécutif, son désir formel de renouer entre les deux pays les liens de leur ancienne amitié, et l'intention de traiter avec vous. Une déclaration aussi explicite n'a été faite que pour fournir au Président des Etats-Unis un moyen infailible d'accommodement. C'était un gage de paix à relever. Je présumais, que vous ne pouviez tarder à recevoir des instructions analogues, d'autres pouvoirs même, s'il en était besoin ; ou qu'au moins, si vous aviez annoncé au Président le désir de retourner en Amérique, un autre envoyé viendrait consommer l'ouvrage heureux, que nous aurions eu la satisfaction de préparer.

A des espérances si fondées se mêlaient des considérations sur les inconvéniens de votre départ. Je vous ai fait pressentir que, malgré les assurances que vous m'a-

vez données, personne ne croirait qu'il tint seulement à votre volonté, à l'opinion intime de l'invalidité de vos pouvoirs, au désir de voir confier à d'autres mains les soins de la négociation. Je vous ai entretenu des conjectures qu'il ferait naître, du parti qu'en tirerait le Cabinet Britannique, qui n'épargne rien pour porter la France et les Etats-Unis à des extrémités, dont il compte profiter seul ; des soupçons même que l'on ferait concevoir au Gouvernement Français. Je vous en ai fait entrevoir les conséquences possibles : divers incidens ont déjà retardé le rapprochement des deux républiques. Il est permis à celui, qui désire sincèrement la paix, d'en craindre de nouveaux.

Ces vues, dont je m'honorerai toujours, m'ont fait résister au désir que vous m'avez montré de quitter la France. Vous insisté définitivement dans votre lettre du 22 de ce mois. Le Directoire m'a, en conséquence, autorisé à vous remettre les passeports, que vous demandez pour vous et le bâtiment qui vous attend au Havre : Vous les trouverez ci-joint.

Puisse votre retour dans les Etats-Unis, et la communication de ce qui s'est passé entre nous depuis que vous avez seul représenté votre Gouvernement, y détruire l'opinion injurieuse des intentions hostiles de la France ! Vous m'avez souvent répété, depuis que vous pressez votre départ : que " si vous ne pouviez traiter ici comme " envoyé, vos bons offices, dans les Etats-Unis ne seraient pas épargnés comme citoyen." Vous ne sauriez rendre aux deux pays un service plus signalé qu'en contribuant à mettre leurs relations politiques et commerciales en concordance avec leur inclination et leur intérêt. Assurez votre gouvernement que le Directoire Exécutif persévère dans l'intention de concilier avec loyauté les différends survenus entre la République Française et les Etats-Unis, aussitôt que l'occasion lui en sera franchement présentée. S'il est bien vrai que les dispositions de votre gouvernement y correspondent, qu'il en donne la preuve ; et répondez d'avance du succès.

Vous ne pouvez vous dissimuler, monsieur, que, si

rien ne vous empêchait de suivre avec moi l'examen et la conciliation des griefs, qui divisent les deux pays, nous ne tarderions pas à n'avoir plus besoin que des ratifications respectives. Qui doutera de la sincérité du Gouvernement Français, lorsqu'on saura, que, depuis trois mois bientôt, les instances viennent toutes de ma part, et que, fidèle aux engagements pris dans ma note du 28 Ventôse, j'ai été le premier à presser sérieusement la négociation, après le départ de MM. Pinckney et Marshall ?

On ne dira pas, j'espère, que le refus de traiter avec eux soit un déni de conciliation, puisque ce refus a été accompagné de la promesse de traiter avec vous, et que vos pleins-pouvoirs vous présentaient comme séparément autorisé. Je ne cesserai d'invoquer cette pièce, parce qu'elle est la base de l'opinion que le Gouvernement a dû former, et qu'en admettant même, que vous fussiez lié par des restrictions secrettes, je ne pouvais, dans mon esprit, opposer ce que je ne connais pas à la croyance, due au titre ostensible.

Oui, monsieur : à peine instruit du départ de MM. Pinckney et Marshall, je m'attachai, dans chaque conférence que j'eus dès-lors avec vous, à vous démontrer l'urgence, la convenance, la possibilité d'une négociation active. Je recueillis vos idées ; elles différaient des miennes : Je cherchai à les lier ; et j'allais vous transmettre des propositions, lorsqu'un avis de votre Gouvernement arriva au Havre. Vous parûtes alors vous disposer à partir. Jusques-là, je n'avais jamais conçu, que vous eussiez le dessein de vous embarquer, avant que nous fussions d'accord sur les articles définitifs à ratifier par votre Gouvernement. Peu de jours après, je reçus des paquets de Philadelphie dont le contenu donna momentanément un autre cours à ma correspondance avec vous. Le 22. Prairial (10 Juin,) je vous notifiai, que les dispositions du Directoire Exécutif étaient les mêmes ; et je vous priai de me déclarer, si vous étiez enfin en situation de négocier. Le 30 Prairial (18 Juin,) je vous transmis un plan complet de négociation. Le 9 Messi-

dor (27 Juin,) je vous remis une première note à discuter sur un des points de nos traités, qui ne sont point exécutés dans les Etats-Unis. Vous avez décliné d'y répondre : cependant il faut s'entendre sur les détails pour parvenir aux résultats. Le 18 Messidor (6 Juillet) je vous en ai remis deux autres. C'est en vain que j'ai accompagné ces pièces de l'invitation la plus cordiale de parcourir rapidement avec moi cette série de discussions indispensables sur tous nos griefs. Vous ne m'avez pas donné même l'occasion de vous prouver combien le Directoire Exécutif voulait y mettre de libéralité. Vous n'avez jamais écrit enfin que pour votre départ. Et c'est la République Française qu'on accuse dans les Etats-Unis de ne vouloir point la paix !

De perfides instigateurs insinueront, qu'elle ne l'a point voulue toujours. Je remonterai donc à l'époque, où, pour la première fois, des symptômes de mécontentement se manifestèrent, c'est-à-dire, à l'arrivée à Philadelphie du ministre Genet, en Prairial, an 1er. Une joye universelle éclata dans les Etats-Unis aux déclarations, qu'il était chargé d'y faire : il exprimait alors les intentions amicales et généreuses du Gouvernement Français, qui, fort de l'énergie nationale, s'abstenait de réclamer l'aide de ses alliés. Bientôt quelques-unes de ses mesures donnèrent de l'ombrage ; elles étaient l'effet d'un zèle mal adapté aux localités, et malheureusement plus mal interprété. Le Président en fit porter ses plaintes en France, à la fin de la même année. Le comité de salut public donna une satisfaction immédiate ; et d'autres agens arrivèrent à Philadelphie au commencement de Ventôse, an 2. Leurs instructions peuvent supporter le grand jour. " Ne se mêler d'aucune affaire de parti, " respecter le Gouvernement, l'exciter à soutenir avec " vigueur sa neutralité, réprimer tous les armemens " qui pouvaient la compromettre, maintenir les droits " assurés à la France par ses traités ; " telle en est la substance. Telles furent encore les instructions données au ministre Adet, qui remplaça ces agens dans l'an 3. Certes rien n'est plus pacifique.

Cependant les droits de la France sont insensiblement méconnus : les clauses les plus importantes de ses traités sont rendues insignifiantes : ses bâtimens éprouvent les vexations les plus décourageantes : l'Angleterre se joue impunément de la neutralité des Etats-Unis, qui devient, pour la France trop confiante, une source de pertes. Une transaction clandestinement négociée finit par consacrer, au détriment d'un peuple ami, les prétentions de son implacable ennemi. Dès-lors il n'y a plus, entre le Gouvernement Américain, que les représentations contrariant, et les ministres plénipotentiaires de la république, qui ne peuvent se dispenser d'en faire, qu'une correspondance où l'aigreur gagne de plus en plus. Le Gouvernement Français ne s'en mêle pas : il se repose sur l'espoir, que l'intérêt propre des Etats-Unis leur fera sentir, que l'Angleterre les entraîne dans son tourbillon. Loin de prendre une attitude hostile, il affecte l'indifférence, pour se montrer patient avec dignité. La foule des réclamations, qui lui parviennent, le force enfin à quitter ce rôle. Il fait déclarer ses griefs le 25 Brumaire, an 5 * ; et, pour provoquer une négociation trop différée, il puise dans les traités de Paris et de Londres les moyens les plus propres à la hâter. Aucune vue d'aggression, aucune intention hostile ne l'animent. Pour obtenir quelque justice des Etats-Unis, il les met dans le cas de demander eux-mêmes un arrangement. Voyons, s'il a refusé quelque proposition honorable.

Mr. Pinckney était parti avant la déclaration du 25 Brumaire, qui suspendait les relations habituelles : il venait remplacer M. Monroe, et, comme lui, expliquer, pallier la conduite des Etats-Unis, sans aucun pouvoir spécial pour la négociation demandée par la France. Il ne pouvait être reçu, puisqu'il n'était pas en situation de remplir les conditions, mises à la reprise des liaisons politiques. Le Président des Etats-Unis crut devoir convoquer extraordinairement le corps législatif. Je ne rappellerai pas son discours d'ouverture, ni la tournure que

* Voyez Tome II, pag. 15. seq.

prirent les débats dans cette session ; mais je dirai, que l'impression, qui en est résultée à Paris, a précédé défavorablement l'arrivée des envoyés ; que cette circonstance seule a suscité un obstacle, qui aurait dû être prévu à Philadelphie ; que les Envoyés eux-mêmes, ne voulant pas comprendre l'effet naturel de ce genre de provocation, ont contribué à rendre l'impression plus durable : elle a cependant été finalement subordonnée au désir primitif d'une conciliation sincère : vous en trouvez la preuve dans l'expédient même, suggéré pour traiter avec vous séparément ; car un gouvernement hostilement disposé n'eût pas pris ce biais délicat, qui ménage son honneur et remplit ses intentions pacifiques.

Vous m'avez fait entendre, monsieur, qu'il eût été bon que le Directoire Exécutif appuyât les déclarations, que je vous ai faites en son nom, par un changement dans les mesures, qui pèsent sur le commerce des Etats-Unis. Je pourrais vous répondre, que votre gouvernement eût aussi assuré son objet, en rétablissant d'abord la République Française dans les droits, qui découlent de ses traités. Mais soyons moins exigeans et plus équitables les uns envers les autres. Quoique les mesures de la France ne soient que la conséquence de celles des Etats-Unis, vous avez dû remarquer, dans mes propositions du 30 Prairial, que l'intention du Directoire Exécutif est, que les prétentions respectives soient examinées et réglées collatéralement (bilatéralement). Il entend consigner dans un même acte, monument durable de l'amitié future des deux républiques, la justice, qu'elles se doivent l'une à l'autre ; et aucune idée de fausse gloire n'entre dans son esprit.

En prenant congé de vous, monsieur, j'ai cru vous devoir un témoignage de mon estime : il est tout entier dans l'abandon, avec lequel je viens de vous parler, et dans l'expression des regrets, que me donne votre départ dans les circonstances actuelles.

Recevez l'assurance de ma parfaite considération.

(Signé) CH. M. TALLEYRAND-PÉRIGORD.

P. S. du 27. Messidor, (15. Juillet).—Une circonstance infiniment grave, monsieur, a retardé l'expédition de cette lettre. Je ne sais, comment il se fait, qu'à chaque pas vers une conciliation intervient une cause d'irritation, et que toujours les Etats-Unis la font naître.

Depuis quelques jours, différens avis parviennent successivement au Directoire Exécutif. Il semble, qu'entraîné hors de toutes limites, votre gouvernement ne garde plus de ménagement. Une loi, du 7 du mois dernier (27. Mai,) l'autorise à faire attaquer tout bâtiment de guerre français, qui aurait arrêté ou aurait intention d'arrêter des navires américains. Une résolution de la chambre des représentans suspend, à compter du 13. de ce mois (1 Juillet,) toutes relations commerciales avec la République Française et ses possessions. Divers projets de loix ont été proposés, pour expulser les Français et séquestrer les propriétés françaises.

La longanimité du Directoire Exécutif va se montrer de la manière la plus irrécusable. La perfidie ne pourra plus jeter un voile sur les dispositions pacifiques, qu'il n'a cessé de manifester. C'est au moment même de cette provocation nouvelle, qui paraîtrait ne laisser de parti honorable que la guerre, qu'il confirme les assurances, que je vous ai données de sa part. Dans la crise actuelle, il se borne à une mesure de sûreté et de conservation, en mettant un embargo momentané sur les bâtimens américains, avec réserve de les indemniser, s'il y a lieu. Il est encore prêt, il est aussi disposé que jamais à terminer par une négociation loyale les différends, qui subsistent entre les deux pays. Telle est sa répugnance à considérer les Etats-Unis comme ennemis, que, malgré leurs démonstrations hostiles, il veut attendre, qu'il y soit irrésistiblement forcé par des hostilités réelles.

Puisque vous voulez partir, monsieur, hâtez-vous au moins de transmettre à votre gouvernement cette déclaration solennelle.

Réponse de M. Gerry à la précédente Lettre de M. de Talleyrand, en Date du 20 Juillet. M. Gerry se borne à faire quelques Observations qui ont pour But de justifier le Gouvernement Fédéral de l'Accusation qui lui est faite de représenter au Peuple Américain le Gouvernement de France comme contraire à la Réconciliation entre les deux Etats. Pour cette Fin M. Gerry fait l'Historique des différentes Missions que les Etats-Unis avaient envoyées en France pour opérer un Raccommodement ; il s'appesantit surtout sur les Propositions qui avaient été faites à lui-même, d'abord pour entamer une Négociation séparée, et puis, après le Départ de ses Collègues, pour prolonger son Séjour en France jusqu'à ce qu'il pût recevoir de nouveaux Pouvoirs. Il donne un Coup-d'Œil rapide des différentes Conférences et des Objets de Discussion qui ont eu lieu entre lui et M. de Talleyrand, tels que la Rédaction d'un Projet de Conciliation à être transmis aux Etats-Unis par M. Gerry, et l'Envoi d'un Ministre de France à Philadelphie ; il retrace les Motifs qui devaient l'empêcher de se charger seul d'une Négociation qui lui avait été confiée conjointement avec ses Collègues, et finit par insinuer que la Cessation des Hostilités contre le Commerce Américain, et une Négociation établie sur Territoire neutre, où 3 ou 5 Commissaires eussent la Faculté de décider des Articles dont on n'aurait pu convenir d'abord, ne manqueraient pas d'avoir le Succès désiré. C'est en donnant cet Avis que M. Gerry prend Congé de M. de Talleyrand.

Paris, July 20th, 1798.

Citizen Minister,

I received on the 27th Messidor, (15th July) your letter of the 24th, (the 12th of July) on which permit me to make some observations.

You allege that, in the United States, the French Republic is accused of not wishing for peace, and to shew that it was always desirous thereof, you recur to the arrival of Mr. Genet in-America. Far from accusations of any kind, I wish to cultivate harmony between

the two governments, as the solid basis of peace. From that epoch, to the departure from the United States of Mr. Adet, the correspondence of the secretaries of state of the United States, with the french ministers in America, and the american ministers in France, contains the history to that time, of the unhappy differences between the two republics, and evinces the sincere desire of the government of the United States, amidst the inevitable embarrassments resulting from the convulsive state of Europe, to preserve harmony and friendship with the French Republic, and to perform, with scrupulous attention, the duties of neutrality. If, by any unfortunate events, France had sustained injuries during that term, still the manifest disposition of the Government of the United States to justice and moderation, was a sure pledge of redress.

When Mr. Monroe was recalled, a minister was sent to supply his place, and you say, " he could not be received, because he was not in a situation to fulfil the conditions necessary for the renewal of the political connexions." Had he been received, he could have applied for other powers, if necessary : nothing is more usual. The application, which you have so strenuously urged, on my part, must have been for the renewal of powers annulled by the act of sending away the other envoys : surely then your arguments would have applied with much more force to the case of a minister, whose powers were only supposed inadequate to the objects of his mission. The act of rejecting this minister, accompanied with circumstances of high displeasure on the part of the Government of the French Republic, could not fail to wound deeply the Government of the United States, and to produce observations on such an important event. Let the cause and effect be buried in oblivion : the remembrance thereof cannot promote harmony. This you will readily accede to, when you consider the amicable and attentive conduct immediately adopted by the American Government, in sending three envoys extraordinary with adequate powers

to effect a reconciliation, and a renewal of a commercial intercourse between the republics.

From the arrival of the envoys at Paris, to the departure of two of them; the objects of their mission were defeated, by insuperable bars arising from demands of loans, which, violating the neutrality of the United States, would have involved them in immediate war, and of procuring reparations for the observations hinted at. Towards the end of that period, after imposing on me secrecy, you stated the embarrassments and dissatisfaction of the Executive Directory, on account of the opinions and conversations of my colleagues, its determination not to treat with them, and its desire to negotiate with me; and you added, that my departure would produce an immediate rupture. Astonished as I was at this communication, I informed you that I had no powers to treat separately; the measure was impossible; and that had my powers been adequate, a treaty made under such circumstances would never be ratified by my government. You differed from me, we reasoned on the subject, and each adhered to his opinion. I urged in vain, the unreasonableness of admitting prejudices against my colleagues, without informing them of the causes thereof; the good effect in removing these, which might result from such information, and the necessity of making known to them, all that had now passed between us. You held me to the promise of secrecy, adding, that if I would negotiate, we would soon finish a treaty; for the Executive Directory were not in the habit of spending much time about such matters. You desired another interview, in which, after a discussion of the subject, I confirmed and adhered to my determination. In this state affairs remained for some time, and I flattered myself with the hope, that failing in the proposition for negotiating with me separately, your next would be to accredit the three envoys; in such an event, the secrecy mentioned would have been proper. This expectation was strengthened by the two subsequent interviews which they had

with you; and you may judge of my surprise on the receipt of your letter of the 28th Ventôse, (18th March) containing a refusal to treat with two of the envoys, and renewing the proposition to treat with me. Finding that I was the person alluded to, and that all hopes of our being jointly accredited were at an end, I again refused, in the most positive terms, to negotiate separately: another proposition was then made, that to prevent a rupture, I should remain here till information would be sent to my government of the events. Embarrassing as such a state was, I submitted to it, rather than to bring on a war. You afterwards sent me your note of the 14th Germinal, (3d April) proposing that I should resume our reciprocal communications upon the interests of the French Republic and the United States. To this I replied, on the 4th of April, "that I could only confer informally and unaccredited on any subject respecting our mission, and communicate to the Government of the United States the result of such conferences; being, in my individual capacity, unauthorised to give them an official stamp." The day after the departure from Paris of the last of my colleagues, I again addressed you, and quoting the above paragraph, informed you, that this I considered as the line of conduct well understood to be observed on my part; to this you made no objection, verbally or by writing, and thus acquiesced in it. Had you not, I should have immediately demanded my passport.

At one of our first interviews, after that letter, you stated a difficulty in adopting the plan proposed by my letter of the 20th of April, from your not being informed of the wishes of the Government of the United States, in regard to a treaty: these were so reasonable that I thought it best to communicate them to you; and according to your own opinion, since expressed, they would require little or no time for discussion: nothing can exceed them for moderation or justice. Believing that you was seriously disposed to bring forward the plan of a treaty, for the consideration of the Govern-

ment of the United States, and being also convinced, that the subject thereof had been so fully discussed, and was so well understood, as not to require much time to accomplish it, I informed you, that I should embark for America in June; and, although you objected to it, in the first instance, you afterwards appeared to be fully convinced of the necessity of it, promised to digest the plan proposed, without delay, and to send it to me for examination. I conferred with you at different times, on the expediency of sending a minister to Philadelphia to complete the negotiation; and you promised to consider of it. At length the *Sophia* arrived, and a few days afterwards you informed me, that I might make myself quite easy, that France did not wish a war with the United States, that she had no thoughts of it, that the american affairs were before the Executive Directory, and that every thing would be arranged to my wishes. I again stated the necessity of sending a minister to America to complete the negotiation. You said you would propose one to the Executive Directory. This I could not suppose was for the purpose you have since stated of residing there after the ratification of the treaty.

Thus were matters circumstanced, until the arrival of the gazettes, containing the dispatches of the envoys to their government, which gave more than a momentary turn to your correspondence with me. When I informed you that I should embark in the *Sophia*, as soon as she could be fitted for sea, there was still time to finish the plan of the treaty, and to send it by me, if expedient. You desired me to remain here; I told you, my return was indispensable, and gave you no other reason. I thought that sufficient. You conceive, it depended on me to be publicly received by the Executive Directory; but our opinions are different on this point. A government sends three envoys to treat with another government; this rejects two of them, and proposes to treat with the third. Candour must admit, I think, that the latter cannot accept the proposal, without

transferring, in this instance, the executive authority of his government, who would only have *nominated* three envoys, to the foreign government, who would have *appointed* one of them. You say, that if my powers were altered, by the departure of my colleagues, yet, on my own hypothesis, I ought to have referred the question to my government, and in the interim to have fixed with you, by a calm and amicable discussion, all the contentious points of our differences. If my government, as you repeatedly have asserted, was apprised before the 20th of March, of the proposition to treat with me separately; it is evident, that it was not disposed to send me new powers; for the Sophia sailed on the 28th of that month, and knowing this you still urged me to make the application. I have been always ready, and had you come forward with the project of a treaty, would have entered into a calm and amicable conference with you on every part of it; but not into a formal epistolary discussion, which was not proposed till some time after I was ready to embark, was only relative to the consular convention, which will soon expire, was contrary to my stipulation relative to conferences, in which you acquiesced, and would have required months to be completed.

You was the first, you affirm, to press seriously the negotiation: you will agree with me, that the merit would have been *greater*, had the measure itself been *feasible*.

You frequently remind me of your exertions which I am disposed as much as possible to appreciate, regretting, at the same time, their circuitous direction. On my part, I think you will be convinced, that every thing has been done which circumstances herein truly detailed, would admit.

It is with pleasure I learn, that the Executive Directory is still ready, and is as much disposed as ever to terminate, by a liberal negotiation, the differences which subsist between the two countries.

This disposition has always existed on the part of the

Government of the United States. A negotiation, then, if set on foot, free from all propositions of loans, and explanations of speeches, to be held, if necessary, in a city of some neutral nation, and providing for a decision by three or five commissioners of all points which may not be determined by direct negotiation, would still be accompanied, in my opinion, with success: but, having no authority, I cannot make the proposition. A preliminary measure appears to be requisite, in which the dignity of this government is as deeply concerned, as the interest of the United States. The depredations, outrages, and cruelties committed on our commerce and citizens, in the West Indies and on our coasts, by french privateers, some of which it is said have no commissions, are perhaps seldom paralleled among civilized nations. It is said, that this government has not been early apprized of these events, which have been a great source of irritation in the United States, and a principal cause of the repressive measures adopted by them. A recal of the commissions of the privateers, and restraining them by severe penalties to the proper objects of capture, cannot fail to have a happy effect.

You claim a promise of my good offices, as a private citizen in America. These shall not be wanting, to represent truly every measure of this government, and to render successful all such as may be well adapted to effect a reconciliation. This is all that can be expected of me, and the duty which I owe to my country will require it.

And now, Citizen Minister, having given you a testimony of my esteem, such as results from a frank and candid conduct, I bid you adieu, wishing sincerely a speedy renewal of amity and commerce between the two republics.

Accept, Citizen Minister, the assurances of my perfect consideration.

(Signed) E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

(No. 25.)

Lettre de M. de Talleyrand à M. Gerry, en Date du 22 Juillet 1798, pour faire quelques Remarques sur les deux derniers Paragraphes de la Réponse précédente du Ministre Américain. Les Dispositions du Directoire Exécutif sont toujours conciliatoires ; il ne sera plus Question d'Emprunt ni d'Explications sur les Discours du Président ; le Gouvernement Français va porter Remède aux Désordres commis dans les Antilles par les Croiseurs Français. M. de Talleyrand finit par regretter que M. Gerry ait refusé de négocier, quoiqu'à son Avis il y fut pleinement autorisé.

Paris, le 4 Thermidor (22 Juillet,) an 6.

Trouvez bon, monsieur, que je m'attache particulièrement aux deux derniers paragraphes de votre réponse, du 20 Juillet, à ma lettre du 24 Messidor (12 Juillet). Quelque facile qu'il soit de rectifier ceux qui précèdent, ce serait rentrer, sans utilité, dans le cercle des digressions. Il m'appartient de sentir ce que dans l'état des choses vous croyez devoir à votre gouvernement, et cette considération suffirait seule pour m'arrêter, si je mettais moins de prix à la conciliation.

Vous me répétez, “ que le Gouvernement des Etats-Unis a toujours été disposé à terminer, à l'amiable, les différends, qui subsistent entre les deux républiques.” Cette assurance nouvelle, dans un moment où ses démonstrations sont hostiles, ne peut qu'en tempérer l'effet. Mais qu'un acte franc, loyal, vraiment amical, réalise donc promptement ces dispositions ! Quoiqu'elles soient loin de se faire sentir dans les réponses du Président aux adresses, qui lui ont été présentées de différents ports des Etats-Unis, je me plais à ne voir qu'un expédient politique dans ses expressions. Je n'en augure pas moins bien des intentions véritables, que vous professez en son nom, et je ne vous aurais pas invité à garantir le succès de la première preuve, qu'il voudra en donner, si le Directoire Exécutif, qui était prêt à vous recevoir,

n'avait pas pris une détermination fixe à cet égard. Une négociation peut donc être reprise à Paris même, où je me flatte que vous n'avez remarqué que des témoignages d'estime, et où ne peut manquer d'être bien accueilli tout envoyé, qui réunira vos avantages.

J'ignore au surplus, monsieur, pourquoi vous me dites, qu'il faudrait élaguer de cette négociation tout préalable d'emprunt et d'explications sur les discours prononcés par le Président. Veuillez bien relire les propositions, que je vous ai transmises le 30 Prairial (18 Juin), elles contiennent toute la pensée du Gouvernement Français ; et vous n'y trouverez pas un mot, qui justifie votre retour sur ces deux questions. Une odieuse intrigue s'en était emparée : la dignité du gouvernement n'a pu souffrir ce mélange ; et il n'a point voulu, que des vues, pures comme les siennes, pussent y être associées. Quant aux mesures préalables, que vous suggérez, monsieur, le gouvernement a déjà prévenu votre désir. Des informations, qu'il vient de recevoir, lui apprennent, en effet, que des violences ont été commises sur le commerce et les citoyens des Etats-Unis, dans les Antilles et sur les côtes. Rendez-lui la justice de croire, qu'il n'a besoin que de connaître les faits pour désavouer tous les actes, contraires aux loix de la république et à ses arrêtés. On s'occupe à y porter remède ; et des ordres vont parvenir dans les Antilles, pour faire rentrer tout dans les limites légales, jusqu'au moment où un arrangement amical, entre la France et les Etats-Unis, les aura respectivement rétablis dans la jouissance de leurs traités.

Ce moment, monsieur, ne peut être trop prochain. Je ne cesse de regretter, que vous vous soyez refusé à l'accélérer, persuadé, comme je le suis toujours, que vous y étiez pleinement autorisé. Agréez mes vœux pour votre heureux passage, et l'assurance de ma parfaite considération.

(Signé) CH. MAU. TALLEYRAND-PÉRIGORD.

(No. 26.)

Billet de M. Gerry à M. de Talleyrand du 25 Juillet, 1798, écrit au Moment de quitter Paris, pour le prier de vouloir faire publier la Traduction de sa Lettre à M. de Talleyrand en Date du 20 Juillet, écrite en Réponse à la Lettre du Ministre des Relations Extérieures à M. Gerry du 12 Juillet, laquelle venait de paraître dans le Rédacteur du 25 du même Mois.

Paris, July, 25th 1798.

Mr. Gerry having seen in the Redacteur of this morning, the publication of a letter to him from the minister of foreign affairs of the French Republic, dated the 24th Messidor (12th of July), requests him to order a just translation of the answer dated the 20th of July, to be also published. Mr. G. being on the eve of his departure from Paris, presumes the minister will readily comply herewith to prevent partial and undue impressions against him in his absence.

(No. 27.)

Lettre de M. de Talleyrand à Mr. Gerry, en Date du 3 Août, 1798, pour lui adresser l'Arrêté du Directoire Exécutif du 31 Juillet, concernant la Course française dans les Indes Occidentales.

(TRANSLATION.)

*Liberty.**Equality.*

Paris, 16th Thermidor 6th year of
the French Republic, one and
indivisible (August 5d, 1798.)

Exterior Relations.

*The Minister of Exterior Relations to Mr. Gerry,
Envoy of the United States.*

Presuming, Sir, that you have not yet embarked, I address to you a decree of the Executive Directory, wherein you will find a part of the measures, which I

announced to you the fourth of this month*. Its solicitude will not be confined to that. Neutrals, in general, will have reason soon to be convinced of its firm attachment to the principles to which it is desirous that all the maritime nations might agree. It depends upon the United States in particular, to cause every misunderstanding immediately to disappear between them and the French Republic.

Accept, Sir, the assurance of my perfect consideration.
(Signed) CH. MAU. TALLEYRAND.

(No. 28.)

Réponse de M. Gerry à M. de Talleyrand, du 8 Août, 1798, écrite au Moment de s'embarquer au Havre pour l'Amérique, pour accuser la Réception de l'Arrêté du Directoire.

Havre, 8th of August, 1798.

At the moment of my embarkation, Citizen Minister, I have the honor of receiving your letter of the 16th Thermidor, (3d August) with the arrêté of the Executive Directory of the 13th, both of which shall be communicated to the supreme executive of the United States, immediately after my arrival there.

Accept, Citizen Minister, the assurance of my perfect respect.

(Signed) E. GERRY.

To the Minister of Foreign Affairs
of the French Republic.

(No. 29.)

Arrêté du Directoire Exécutif de la République Française du 31 Juillet, 1798, concernant l'Observation des Lois de la République sur la Course et les Prises.

Extrait des Registres des Délibérations du Directoire Exécutif.

Paris, le 13 Thermidor, an 6 de la République Française (31 Juillet 1798).

Le Directoire Exécutif, ouï le rapport du ministre de

* Voyez No. 25, du 22 Juillet, 1798.

la marine et des colonies : considérant, que les nouvelles, récemment parvenues des Colonies Françaises et du Continent d'Amérique, ne permettent pas de douter, que des croiseurs français, ou soi-disant français, n'aient enfreint les loix de la république sur la course et les prises : considérant, que des étrangers et des pirates ont abusé de la latitude laissée à Cayenne, et dans les Antilles, aux armemens en course ou en guerre et marchandises, pour couvrir du pavillon français leurs exactions et la violation du respect, dû au droit des gens, ainsi qu'aux personnes et aux propriétés des alliés et des neutres : arrête :

Art. I. A l'avenir il ne pourra être délivré, dans les Colonies d'Amérique, aucunes lettres de marque, autorisations ou permissions pour armer, soit en course, soit en guerre et marchandises, que par les agens particuliers du Directoire eux-mêmes, lesquels ne pourront déléguer ce droit à personne, ne devront en user qu'en faveur d'armateurs, dont les principes et les moyens leur seront bien connus, et seront en outre tenus de se conformer à toutes les loix sur la course et les prises, et spécialement à celle du 1. Octobre 1793. (v. st.)

II. Toutes les lettres de marque, autorisations ou permissions, accordées dans les Colonies d'Amérique, par les agens particuliers du Directoire Exécutif ou tous autres agens civils et militaires sous leurs ordres, pour armer, soit en course, soit en guerre et marchandises, seront regardées comme non avenues, après le trentième jour qui suivra la publication du présent arrêté dans lesdites colonies.

III. Tout agent, ou tout autre délégué, dans les possessions neutres, pour y juger la validité des prises faites par les croiseurs français, et qui serait soupçonné d'avoir des intérêts directs ou indirects dans les armemens en course, ou en guerre et marchandises, sera immédiatement rappelé.

IV. Les agens particuliers du Directoire Exécutif à Cayenne, Saint-Domingue et la Guadeloupe, veilleront soigneusement à ce que les intérêts et les propriétés des bâtimens neutres ou alliés soient scrupuleusement re-

spectés; et, dans aucun cas, ils ne pourront traiter de leurs cargaisons que de gré à gré, et à la pleine et entière satisfaction des deux parties contractantes.

V. Lesdits agens particuliers du Directoire Exécutif, les commandans de tous bâtimens de la république, les Consuls, Vice-Consuls et tous autres, investis de pouvoirs à cet effet, feront arrêter et punir, conformément aux loix, tous ceux qui contreviendraient aux dispositions du présent arrêté, qui sera imprimé au bulletin des loix, et de l'exécution duquel sont chargés les ministres des relations extérieures, et de la marine et des colonies.

Pour copie véritable, le Président du Directoire Exécutif,

(Signé) MERLIN.

Par le Directoire Exécutif, le Secrétaire-Général,

(Signé) TREILHARD.

Pour copie véritable,

Le Ministre des Relations Extérieures,

CH. MAU. TALLEYRAND.

Par le Ministre,

Le Secrétaire-Général,

PAGANES.

L. S.

(No. 30.)

Lettre de M. Gerry à M. Hauteval (M. Z.) du 9 Juin, 1798, pour le prier de rectifier deux Erreurs qui s'étaient glissées dans la Lettre que M. Hauteval avait adressée à M. de Talleyrand, relativement à ses Entrevues avec les Envoyés d'Amérique, cette Lettre ayant été publiée par Ordre du Gouvernement Français.

Paris, June 9, 1798.

Sir,

In your letter to the minister of foreign affairs of the 13th Prairial, published in the Bien-Informé of this day, you have deviated in some points, not very material, from the statement communicated by the

envoys of the Government of the United States, respecting a conference which I had with the minister aforesaid on the 22d of October last, viz. that I requested the interview, instead of the minister, and that I met him twice on this communication, whereas I saw him but once. I wish, therefore, you would revise the statement alluded to, and inform me, whether it is not to the best of your memory literally true; it is precisely the same, without changing a word, which we communicated to my colleagues.

I am, Sir, with much esteem and respect, your very humble servant,

(Signed)

E. GERRY.

Mr. Hauteval.

(No. 31.)

Réponse de M. Hauteval à M. Gerry, du 10 Juin, 1798. Le premier convient de s'être trompé sur les Circonstances que M. Gerry avait relevées dans la Lettre de M. Hauteval à M. de Talleyrand.

(TRANSLATION.)

Sir,

I have received the letter which you did me the honor to write to me yesterday, relative to that which I deemed it my duty to write to the Minister of Exterior Relations, on the 13th of this month, and which the government caused to be printed.

It is not at all astonishing that my memory may not have served me with precision upon a subject which passed more than six months ago, and of which I have not taken notes. I undertook merely to repeat with exactness the essential heads, which, I believe, I have done.

I indeed recollect, that having been together at the minister's, and not having met with him, I left our names with his porter; that having returned there the next day alone, he expressed to me his regret at not

having been at home, when you called there the day before, and charged me to tell you, that he would receive you with a great deal of pleasure on a day he assigned to me : the appointment, therefore, proceeded from the minister, and not from your request, as I have said in my letter ; but the matter appears to me to be of little consequence. The second error which you remind me of having committed, is that of having separated, in two conferences, what passed in one. On every occasion, when I have had the pleasure to see the minister, I have always conversed with him on matters relating to the negotiations with the United States of America, the success of which, I have never ceased anxiously to desire. In my letter, I might be mistaken in some details ; but you, Sir, could not, having immediately taken a written note of what had just passed between the minister, yourself and me. I regret, that I had not the pleasure to see you before I transmitted my letter to the minister : by communicating it to you I should have rectified the two slight errors which crept into it ; but I was constrained by the occasion, and was very far from thinking that it would be printed.

I shall ever be anxious to render homage to the truth, and to seize occasions of assuring you of my respectful attachment.

I have the honor to be, Sir, your very humble and very obedient servant,

(Signed)

L. HAUTEVAL.

Paris, the 22d Prairial, 6th year,
(10th June, 1798.)

To Mr. Gerry, Envoy of the United States
of America, Rue de Vaugirard, Paris.

(No. 32.)

Lettre de M. Gerry, à M. King, Ministre Plénipotentiaire des Etats-Unis à Londres, en Date du 26 Juillet, 1798, pour lui donner, en Confidence, Communication des Pièces de la Correspondance entre M. Gerry, et le Ministre des Relations Extérieures de France, dans la Supposition que M. King eût reçu du Gouvernement Fédéral des Instructions conditionnelles, relatives à la Négociation entre la France et les Etats-Unis.

Paris, 26th July, 1798.

Dear Sir,

Some part of the last instructions of the secretary of state of the United States to the envoys, and to Mr. Humphreys, who brought the dispatches, induces me to think, that in the precarious state of our affairs with France, you may have conditional instructions, which may require particular information of what respects the existing state of affairs here. I have, therefore, thought it best to enclose, in the most perfect confidence, by my secretary, Mr. Tazewell, the documents necessary to attain this object, and contained, in the schedule annexed, for your use only. If you have not received such instructions, your prudence will dictate the necessity of observing the most profound secrecy, pending any subsequent measures which may take place for restoring friendship between the two republics.

I shall leave Paris for Havre as soon as possible, and expect, on my arrival there, to embark immediately for the United States.

Be assured that I remain, dear Sir, your friend and very humble servant,

E. GERRY.

Mr. King, Minister Plenipotentiary of the
United States at London.

(Incluse du No. 32.)

Liste des Pièces de la Correspondance entre M. de Talleyrand et M. Gerry.

Schedule inclosed in a Letter to Mr. King.

Letters from Mr. Gerry to the Minister of Foreign Affairs.

No. 1.....	April 4.	No. 6.....	June 13.
2.....	20.	7.....	22.
3.....	May 31.	8.....	July 1.
4.....	June 3.	9.....	10.
5.....	10.	10.....	20.

To Mr. Pickering.

No. 1.....	May 12.
2.....	13.

Letters from the Minister to Mr. Gerry.

No. 1.....	Germinal 14.....	April 3.
2.....	Prairial 11.....	May 30.
3.....	13.....	June 1.
4.....	22.....	10.
5.....	30.....	18.
6.....	Messidor 9.....	27.
7.....	18.....	July 6.
8.....	24.....	12.
9.....	Thermidor 4.....	22.

(No. 33.)

Extrait d'une Lettre de M. Gerry à son Secrétaire, M. Taxewell, en Date du 27 Juillet, 1798, pour lui recommander de remettre lui-même en Personne à M. King les Dépêches dont M. Gerry l'avait chargé pour ce Ministre.

Extract of Mr. Gerry's Letter to Doctor Taxewell, as far as it relates to Mr. King, Minister of the United States at London.

Mignon, 27th July, 1798.

Dear Sir,

The Dispatches for Mr. King are to be delivered to

him by yourself; in the interim, you will please not to let them be put out of your possession or communicated to any one.

(No. 34.)

Substance d'une Conférence entre M. Gerry et le Ministre d'Hollande à Paris, le 25 Juillet, 1798. Le Ministre Batave offre à M. Gerry la Médiation de son Gouvernement pour l'Arrangement des Différends entre la France et les Etats-Unis. Le Ministre Américain décline l'Offre, parce que, à son Avis, elle devrait se faire à son Gouvernement; mais il promet de la lui transmettre; il pense qu'il n'y a pas lieu à Médiation, les Voyes de la Négociation directe entre les deux Etats étant toujours ouvertes; mais que le Gouvernement Américain, qui avait déjà envoyé deux Missions à Paris, hésiterait à en envoyer une troisième; que maintenant il en était à la France de faire passer un Ministre en Amérique; &c. M. Gerry se refuse également à la Proposition du Ministre Batave, de rester à Paris jusqu'à ce que l'on sache la Réponse des Etats-Unis à l'Offre de Médiation.

Substance of a Conference with the Dutch Minister, the 25th July, 1798.

Just before dinner, the dutch minister called on me, and said, he had received, from Mr. Talleyrand, a printed copy of his letter to me, dated 24th Messidor, (12th July) that the Dutch Government took a friendly part in the disputes between France and the United States, and that he came to offer his services, and the mediation of his government, who had authorized and instructed him on this head.

I answered, that the conduct of Mr. Talleyrand, in publishing his letter to me, had an hostile appearance: that if a mediation could be supposed necessary, it must be offered to the Government of the United States: I had no authority to accept it: that if the Government of France was sincere in its declaration, made through Mr.

Talleyrand, its minister, all that was wanting was to open a negotiation; for he had expressed a desire to shew by treaty how well disposed France was to put an end to these disputes; that the Government of the United States was so reasonable, and just in its demands, that it could not fail to evince a just disposition to a reconciliation, that the etiquette of setting on foot a negotiation appeared at present to be the only embarrassment; more especially as the principal obstruction to a negotiation had ceased, this government having relinquished all claims of loans and reparations, on account of the President's speeches: that, as the United States had been twice defeated in sending ministers to Paris, the government might not be disposed to send them a third time: and that, if the French Government would propose some city in a neutral nation, as a place for opening a new negotiation, or which would be better, would send a minister to the United States, I did not doubt it would succeed: that this was a mere matter of opinion; for I had no instructions on the subject; neither was I informed, whether my government had or had not formed an alliance with any other nation, as had been frequently reported. The dutch minister answered, that the proposal of a mediation must go to the government, and enquired in that case if I would stay at Paris: I answered no, it was not necessary; neither did I conceive the propriety of offering at this period a mediation: the proper mode of settling disputes, was, in the first instance, by treaty; if in any points this should fail, still there were other means besides the mediation of a third power, which might be adopted; but that if his government wished to make the proposition, I would carefully transmit it to the Government of the United States.

He said, that Mr. Talleyrand, who had stiled his letter a pacific manifesto, and had sent a printed copy to each foreign minister, had no hostile intention in publishing it; but considered it as a friendly measure. I answered we then had different views of the subject. I then shewed the answer to that letter which the dutch minis-

ter read. I thought it necessary for the information of his government to make to him the communication mentioned.

(No. 35.)

Pièce demi-officielle que le Gouvernement Français faisait publier dans le Journal du RÉDACTEUR du 8 Juin, 1798, au Sujet des communications faites au Congrès Américain par le Président des Etats-Unis. L'Auteur de cet Ecrit s'attache à prouver que les Ministres Américains ont été la Dupe des Menées de quelques Intrigans Etrangers ; que ces Intrigans avaient eu si facilement Prise sur les Envoyés d'Amérique par l'Eloignement, où ils s'étaient tenus du Gouvernement Français, depuis leur arrivée à Paris ; que les Communications faites au Congrès par le Président des Etats-Unis des Rapports étranges des Ministres Plénipotentiaires avaient pour but d'offenser tellement le Gouvernement Français qu'il déclarât la Guerre à l'Amérique ; que cette Manœuvre était l'Ouvrage des Partisans de l'Angleterre, qui cherchaient à mettre en mésintelligence la France et les Etats-Unis, afin de faire rentrer les derniers sous la Domination Britannique ; mais que le Projet de ces Instigateurs de troubles ne réussirait pas, le Gouvernement Français étant déterminé à étouffer tout sentiment de Vengeance, pour n'écouter que les Conseils de la Magnanimité et de la Conciliation.

Cette Pièce est suivie d'une Lettre de M. Hauteval (désigné par Z. dans la Correspondance,) à M. de Talleyrand, par laquelle il déclare ce qui s'est passé dans les deux entrevues de M. Gerry et de M. de Talleyrand, auxquelles il avait été présent.

Sur les Communications faites par le Président des Etats-Unis au Congrès Américain, le 14 Germinal. (April, 3, 1798.) (V. Moniteur, No. 261, An VI.)

Paris, le 20 Prairial (8 Juin, 1798.)

Les papiers américains et anglais viennent de retentir de la publicité des plus étranges communications que les

envoyés des Etats-Unis ont cru devoir faire à leur gouvernement. C'est de la part de ces envoyés un monument déplorable de crédulité et de contradictions ; c'est de la part de ce gouvernement une provocation plus déplorable encore.

Il faut, par l'évidence des faits et les propres paroles des envoyés eux-mêmes, montrer leur inconcevable erreur. Il faut, par la force de la raison et le sentiment seul du bonheur des deux républiques, répondre à la provocation si visiblement suggérée par le Gouvernement Britannique.

Ce gouvernement, en effet, après tant et de si ridicules efforts contre la République Française, essaie d'organiser la corruption autour d'elle. Désespéré de tant de paix glorieuses qu'elle a conclues, il s'est flatté, par ses propres perfidies, de reveiller les guerres anciennes en Europe, et de lui susciter une guerre nouvelle en Amérique ; mais tout ce système de corruption britannique sera dévoilé et renversé ; et le peuple américain connaîtra la profondeur du précipice où le poussent les serviles amis de ses anciens oppresseurs.

Depuis long-temps la République Française réclamait, et certes elle avait le droit de le faire, contre l'inexécution des points les plus importans de la convention de 1788, passée entre la France et les Etats-Unis. Les hostilités maritimes amenèrent bientôt des griefs plus aggravans. Ce fut en vain que la république fit le sacrifice des armemens qui pouvaient compromettre la neutralité américaine. Les plus légitimes de ses armemens furent contestés peu après. Les bâtimens français éprouverent mille vexations. Leurs prises n'étaient plus sous la protection des traités. Les cours de justice s'en étaient arrogé la connaissance ; de longues et ruineuses chicanes découragèrent les capteurs ; bientôt les ports français dans les deux mondes furent déclarés bloqués par des proclamations britanniques ; les bâtimens qui en sortirent furent arrêtés sur le soupçon vague de propriétés ennemies ; ceux qui y portaient des alimens furent écartés. D'un autre côté, les bâtimens de guerre

anglais entraient dans les ports des Etats-Unis après s'être emparés de propriétés françaises ou prétendues telles. Ils y devinrent insensiblement stationnaires, et s'en firent des places d'armes d'où ils couraient, et sur les Français, et sur les Américains en relation avec la France. La république cependant se bornait à invoquer ses traités avec les Etats-Unis, à presser leur gouvernement de faire respecter leur propre neutralité. Ils lui répondirent par un traité négocié et conclu clandestinement avec la Grande-Bretagne.

Ce traité assure-t-il au moins la neutralité des Etats-Unis ? Non—Il légitime la présence des forces anglaises dans leurs ports ; il donne à l'Angleterre des droits qui, au sein de la guerre, améliorent sa situation au détriment de la France ; il lui laisse la facilité d'affaiblir encore la France et ses colonies ; il sacrifie les principes généreux posés pour la liberté des mers dans les traités antérieurs.

La France se plaint ; on élude, on divague, on multiplie les offices sans aborder le fond de la question. On demande des satisfactions ; on n'en offre pas. On ne parle que des torts éprouvés par les Etats-Unis ; on glisse sur ceux qu'ils font éprouver à la France. Le traité de 1778 est de plus en plus rendu insignifiant, et les derniers coups sont portés aux croiseurs français, dans les parages américains, par la défense de vendre leurs prises. La république est obligée, pour manifester son ressentiment trop long-temps suspendu, et amener une négociation, de s'approprier les clauses mêmes du traité anglais. Enfin, les Etats-Unis, sensibles seulement aux conséquences fâcheuses qui en sont résultées pour eux, ont paru vouloir un rapprochement.

Trois commissaires ont été envoyés à cet effet près la République Française : deux d'entre eux, le général Pinckney et M. Marshall, manifestant contre la France des préventions apportées d'Amérique, ou puisées dans le genre de liaisons qu'ils ne tardèrent pas à former ici ; le troisième, M. Gerry, annonçant plus d'impartialité, et se montrant plus disposé à écouter favorablement tout ce qui pourrait rapprocher les deux républiques.

De cette réunion mal assortie, et qui découvrait des dispositions peu conciliantes, il a dû résulter et il est résulté en effet une marche oblique, embarrassée, de la part des commissaires ; de-là, leur éloignement constant à faire tout ce qui pouvait rapprocher, leur empressement à écrire tout ce qui pouvait aigrir.

Ils manifestèrent d'abord le désir d'être reconnus ; mais il leur fut demandé, pour condition préalable, des explications sur quelques phrases évidemment outrageantes contre la république, qui se trouvaient dans le discours d'ouverture prononcé par le Président des Etats-Unis. Ils firent plus que de refuser ; ils ne concurent pas même cette demande, et se rejetèrent sur des récriminations sans motif. Bientôt on parut vouloir leur épargner l'embarras des désaveux ; et dans la vue de les détacher de l'Angleterre, et de redresser la balance si fortement penchée en faveur de cette puissance par le dernier traité, on voulut obtenir d'eux une preuve d'attachement non équivoque à notre cause, qui, si récemment encore, était la leur : il convenait aux finances d'échanger à cette époque, contre des espèces, des inscriptions bataves à échéances graduées ; le ministre des relations extérieures leur fit pressentir qu'une offre faite par eux, d'en acheter une certaine quantité, serait regardée comme un acte amical. Ils dirent qu'ils n'en avaient pas le pouvoir, ils montrèrent qu'ils n'en avaient pas la volonté.

Pour arriver à quelque accommodement, à quelque explication amicale, il fallait des communications fréquentes avec le ministre de l'extérieur. Celui-ci se plaignait à tout le monde de ne pas les voir, et ils avouent qu'il leur fit parvenir plusieurs fois l'expression de ce reproche ; mais deux des commissaires, se retranchant sur l'étiquette, se refusèrent à ce désir. M. Gerry se décida enfin à y aller, parla deux fois au ministre ; et soit embarras de s'expliquer, soit crainte de se compromettre, il dit peu de chose, et n'osa se décider sur rien.

Cependant les envoyés se sont crus obligés d'adresser au Président des Etats-Unis un compte très-volumineux de leur négociation.—De quoi donc a pu se composer ce

compte ? Il a fallu le remplir des méprisables manoeuvres de tous les intrigans qui, voyant des commissaires chargés des plus grands intérêts, s'isolant du gouvernement auprès de qui ils devaient traiter, ont couru se ranger autour d'eux, et les ont enivrés de l'idée de leur crédit, de l'opinion de leur importance.

Un de ces intrigans paraît s'être fait un titre de quelques relations, qu'en sa qualité d'étranger recommandé, il était parvenu à se procurer avec le ministre ; un autre, et c'est le plus agissant, se fait un titre des seules relations qu'il avait avec ce premier intrigant ; car il déclare ne pas même connaître le ministre.—Telle est, au reste, la condition de l'homme, quel qu'il soit, placé à la tête de ce département, qu'il est tenu de recevoir et d'entendre beaucoup de personnes qui sont loin d'avoir aucune part à sa confiance, et qu'il n'a aucun moyen pour empêcher l'abus qu'elles font, loin de lui, des visites les plus insignifiantes, dont elles se prévalent, au gré de leur intérêt, auprès des hommes sans expérience.

Dans la publication qu'a faite, du compte de ses envoyés, le Gouvernement Américain, ces personnages sans aveu sont désignés chacun par une lettre : le ministre, impatient de connaître leurs noms, en a demandé avec instance, et a obtenu enfin la communication qu'il a déposée sur le champ entre les mains de l'autorité propre. On apprendra avec plaisir que ce sont des étrangers, et l'on croira sans peine qu'ils se sont rendus justice à eux-mêmes, en se hâtant de quitter le sol de la république. Une seule de ces lettres, Z., désigne un Français qui s'est empressé de se déclarer. (*) Le langage de celui-ci est sans reproche : il est annoncé comme ayant quelquefois servi d'interprète, mais on voit clairement qu'il n'a interprété que des propositions honnêtes.

Quant aux étrangers qu'on voit figurer dans cette négociation, il paraît que toute leur intrigue avait pour but

(*) Voyez sa lettre au ministre, imprimée à la suite de ces réflexions.

d'obtenir des Américains une somme de 1,200 mille liv. pour en être fait une distribution corruptrice. C'est de-là que partent, c'est là qu'aboutissent tous les mouvemens, tous les propos, toutes les démarches, minutieusement détaillés dans le compte des envoyés.

Il sera à jamais inconcevable que des hommes chargés de représenter les Etats-Unis près la République Française, aient pu, un instant, s'abuser sur des manœuvres si visiblement mensongères, et l'on serait tenté de convertir ici l'erreur en mauvaise foi.

Quoi ! trois hommes sont envoyés d'Amérique en France pour y négocier un rapprochement entre les deux républiques : embarrassés dans un préliminaire, bientôt ils ne peuvent conférer avec le ministre comme commissaires ; mais ils ont mille moyens de le voir comme particuliers, soit chez lui, soit ailleurs, et deux d'entre eux refusent constamment toutes les facilités qui leur sont offertes !

Ce n'est pas tout : on les voit présenter les détails de leur négociation, comme persuadés que les propositions choquantes qu'ils disent leur avoir été faites, leur ont été adressées par un homme investi de la confiance du gouvernement ; et cependant, dans le cours de leur récit, ils laissent échapper l'aveu qu'à diverses reprises ils se sont défiés de ces communications clandestines, et qu'ils se sont enfin décidés à les repousser désormais. M. Gerry déclare même positivement, que ces entremetteurs *n'ont produit aucune communication, aucun document de cette espèce que ce fut**. En même-temps ils ont continué à se refuser aux communications directes qui leur étaient offertes à tous les instans par le ministre. Tout cela n'est-il pas un abîme de contradictions ?

Et quand on examine par quelle série d'intermédiaires ils imaginaient aboutir au ministre, qu'il leur était si facile de consulter immédiatement, n'est-on pas réduit à

(*) Voyez sa première réponse au ministre, page 267 de ce volume.

l'impossibilité de penser qu'ils aient eux-mêmes adopté sérieusement les conséquences de leur récit ?

Ici, c'est une femme, qu'on sait être liée avec M. Pinckney, qui lui tient le propos le plus innocent, qu'on lui eût répété d'un bout de la France à l'autre : *pretextons*, lui dit-elle un jour, *de l'argent dans notre guerre, nous vous en avons bien prêté dans la vôtre* ; et ce propos si simple est recueilli par M. Pinckney, qui a besoin de tout écrire et de tout envenimer : il est envoyé mystérieusement par lui à son gouvernement, comme s'il avait un rapport quelconque avec les propositions clandestines faites par les intrigans ; tant la défiance est minutieuse, tant la prévention s'égare dans ses raisonnemens, tant la politique de certains hommes est un fléau dans le commerce de la société.

Là, c'est un W., qu'on n'a pu parvenir à connaître, qui introduit chez le général Pinckney un X., homme très-emporé, se disant chargé d'un message du ministre, qui, pressé bientôt de répondre s'il en est connu personnellement, est contraint de dire que non : mais qu'il tient les propositions qu'il a faites de Y., lequel, dit-il, a des liaisons avec le ministre ; et cependant, lorsqu'on veut confier à Y la réponse négative à sa proposition des douze cents mille livres, il se défend de s'en charger, et il est réduit à avouer par une sorte de pudeur, et au risque de discréditer son propre rôle, que la proposition ne vient ni du Directoire ni même du ministre, qu'elle vient uniquement de lui Y., qui désirait sauver aux envoyés la mortification des désavens ; que si ces mêmes hommes ont ensuite tenu un langage différent, n'était-il pas naturel aux envoyés de se défier pour toujours de leurs rapports, et sur-tout de chercher à remonter à la source ? Ils ne l'ont pas fait. Comment allier cette conduite, ou avec la raison, ou avec la bonne foi ?

Dans ce même compte rendu, ils s'annoncent comme voulant instruire leur gouvernement dans le plus grand détail de tout ce qui s'est passé de relatif à leur commission : et tandis qu'ils recueillent avec un soin si scru-

puleux tant d'absurdités, tant d'inepties misérables, ils se taisaient sur les communications officielles qu'ont eues avec eux, de la part du ministre, des employés des relations extérieures : c'est, sans doute, parce que ces communications, d'accord avec le petit nombre de celles qu'avait faites le ministre lui-même, étaient pures, loyales, propres à honorer le Gouvernement Français : il entraînait dans leur plan de les passer sous silence. Les autres, si suspectes dans leur origine, étaient infâmantés dans leur objet ; ils ont mis le plus grand empressement à les faire connaître. (*).

Ils venaient de présenter un exposé volumineux de leurs prétendus griefs : ils savaient très-bien que le ministre allait leur adresser une note en réponse, qui devait être une des pièces authentiques de la négociation, et qui leur a été envoyée, en effet, au moi de Ventôse dernier. Ils se sont hâtés de publier tout ce qui n'était évidemment pas du ministre, et qu'ils ont cherché à lui imputer, pour affaiblir, sans doute par là, l'impression si différente que devait produire la note où tout respire le désir sincère de la conciliation.

Cet ensemble de faits présente un tel tissu d'inconséquences et de contradictions, que l'esprit s'y perd. On ne sait plus comment préciser les reproches à faire aux envoyés américains. Ce que l'on sait bien clairement, c'est qu'ils ont été les hommes les plus étrangement abusés s'ils ont cru ; les plus perfides s'ils n'ont pas cru ce qu'ils racontent. (Dans l'expression de ces reproches qui échappent à l'indignation, il faut se hâter de séparer M. Gerry, qui, sans doute, peut avoir été trompé et par les intrigans étrangers, et peut-être aussi par ses collègues mêmes, mais qu'aucun soupçon de mauvaise foi et de déloyauté ne peut atteindre.)

(*) Voyez dans la deuxième lettre de M. Gerry, en date du 15 Prairial, la déclaration formelle de M. Gerry, d'avoir vu dans le cours des négociations des employés aux relations extérieures, et la justice qu'il leur rend de n'avoir proféré aucun mot qui eut le moindre rapport avec la proposition du genre de celles que paraissent avoir faites les intrigans étrangers X. et Y.

Maintenant, quel peut être le motif secret qui a fait répandre avec tant d'éclat des communications aussi puériles ? Par où donc peuvent-elles justifier l'affectation pompeuse avec laquelle le peuple américain a été préparé à les entendre ? Comment concevoir qu'on ait espéré rendre le ridicule plus imposant par des jeûnes et des prières publiques ?

Un grand objet, sans doute, a fait hasarder de donner pour des révélations de la plus haute importance le bavardage incohérent de deux intrigans étrangers à la France. Peut-être a-t-on supposé que les citoyens des Etats-Unis jugeraient le Gouvernement Français sur ces caricatures, et que le Gouvernement Français serait sensible à une provocation aussi marquée. On a calculé l'effet de l'outrage sur la malignité de l'intention, et non sur la petitesse des moyens.

En un mot, on s'est flatté d'exciter l'indignation au lieu de la pitié. On a voulu la guerre ; on a voulu que la France insultée la déclarât au peuple dont elle a défendu la cause, et qu'il fut, par elle-même, replacé dans les bras de l'Angleterre.

Par la guerre, le Cabinet Britannique se procure un allié qui travaillera pour elle, secondera ses projets sur les colonies françaises, et espagnoles, et reculera le moment de son humiliation. Par la guerre encore, le cabinet britannique accélère l'exécution d'un plan favori que jamais il n'a perdu de vue.

On sait que, dès qu'il désespéra de réunir à la triple couronne les Etats dont il fut obligé de reconnaître l'indépendance, il aspira à leur rendre au moins des préjugés favorables à la royauté limitée ; qu'il s'attacha à fortifier, par l'analogie des formes constitutionnelles, les habitudes communes au peuple anglais et au peuple américain, et qu'il eut soin de tenir long-temps, dans le voisinage des Etats-Unis, un des fils de Georges III. Serait-il donc vrai qu'à la honte de l'esprit humain, il se trouvât beaucoup de citoyens américains sérieusement réconciliés au régime anglais ? Serait-il vrai que des hommes, appelés par la confiance publique à la tête du Gouvernement des

Etats-Unis, n'eussent écrit en faveur de la constitution britannique que pour en ménager l'adoption dans leur pays ? Serait-il vrai que la soif des honneurs, l'avidité des richesses, le désir de la perpétuité des pouvoirs, eussent déjà mûri ce complot contre la liberté ?

Si ce ne doit plus être un soupçon, tout s'explique. Il faut la guerre pour lever des troupes et obtenir des subsides ; il faut surtout une guerre dénaturée contre d'anciens amis, contre des frères, contre des républicains ; il faut que cette guerre excite des commotions civiles, révolte toutes les idées de la morale, soulève les vrais enfans de l'Amérique ; et les prétextes naissent en foule pour ériger en sédition les honorables défenseurs des principes, et substituer un gouvernement monarchique au gouvernement représentatif.

Il serait désormais superflu de le dissimuler. Telles sont les coupables menées du Cabinet Anglais. Telle est l'aveugle tendance d'un gouvernement qu'il influence ; et c'est la République Française qui, pour la liberté, sacrifia le sang et la fortune de ses concitoyens ; c'est elle qu'on invite à frapper le coup fatal ! Mais supérieure à ses ressentimens, elle ne prendra conseil que du bonheur des deux républiques, et elle appellera l'univers entier, comme juge de la sincérité des dispositions qu'elle n'a cessé, qu'elle ne cessera jamais de manifester pour vivre en paix avec l'Amérique.

P. S. Il importe extrêmement de faire connaître les lettres qu'a écrites à M. Gerry, envoyé des Etats-Unis, le ministre des relations extérieures, aussitôt qu'il a eu connaissance de cette étrange publication : il importe également de connaître les réponses qu'a faites M. Gerry. Voici les unes et les autres : (Voyez les numéros précédens, 6, 7, 8. 10, 11.)

(La lettre suivante du citoyen désigné par la lettre Z., n'est pas moins essentielle à publier.)

Au Ministre des Relations Extérieures.

13 Prairial, an 6. (1 Juin, 1798.)

M. Gerry m'ayant communiqué la lettre que vous lui avez écrite hier, par laquelle vous désirez expres-

sément qu'il vous fasse connaître les personnes que veulent désigner les lettres W. X. Y. Z., de la correspondance des envoyés américains, imprimée dans un papier public des Etats-Unis d'Amérique, en date du 12 Avril, (v. st.)

Ma sensibilité a dû être vivement affectée de me voir sous la lettre Z., jouer un rôle à côté d'intrigans, dont le projet, sans doute, était de tirer avantage de la bonne foi des envoyés américains, et d'en faire leur dupe. Me trouvant impliqué dans cette affaire, et voulant me tranquilliser moi-même sur les impressions désagréables, et la suite que pourrait laisser la publication de votre lettre à M. Gerry, j'ai cru devoir accourir vers vous, et vous prier, citoyen ministre, de vouloir bien me déclarer par écrit, que, dans les pourparlers qui j'ai eus avec ces messieurs, j'ai suivi les communications que vous m'aviez chargé de leur transmettre, ainsi que je vais les exprimer ci-dessous.

Au commencement de Brumaire dernier, ayant été rendre mes devoirs au citoyen ministre des relations extérieures, et la conversation étant tombée sur les Etats-Unis d'Amérique, il me témoigna sa surprise de ce qu'il ne voyait pas d'Américains chez lui, et surtout les nouveaux envoyés; que ce n'était pas le moyen d'entamer une négociation, dont ils avaient plus raison que nous de désirer le succès; qu'il les recevrait individuellement avec un grand plaisir, et particulièrement M. Gerry qu'il avait connu à Boston: il me chargea, sachant mes liaisons d'amitié avec M. Gerry, de leur faire part de ce qu'il m'avait dit. Je me rendis, en conséquence, chez M. Gerry, lequel ayant fait appeler ses collègues, je leur communiquai la conversation que j'avais eue avec le citoyen ministre.

M. M. Pinckney et Marshall se refusèrent d'aller chez le ministre sous des raisons d'étiquette; mais M. Gerry n'ayant pas les mêmes raisons, il fut convenu qu'il irait le lendemain, et que je l'y accompagnerais, M. Gerry, à cette époque, ne pouvant pas s'exprimer en français. Le lendemain nous y fumes, mais le ministre ne s'étant pas trouvé chez lui, M. Gerry lui fit demander un ren-

dez-vous, qui lui fut assigné pour quelques jours après. Nous nous y rendîmes ; et après les complimens d'usage, M. Gerry ayant témoigné au ministre son désir de voir l'harmonie et la bonne intelligence se rétablir entre les deux républiques, le ministre lui répondit que le Directoire avait pris une détermination, portant de ne point traiter avec eux, qu'au préalable ils n'eussent fait réparation de quelques articles du discours du Président à l'ouverture du congrès, et donné une explication de quelques autres ; qu'il ne pouvait différer que de quelques jours de leur faire part officiellement de cette détermination ; que jusques-là, s'ils avaient quelques propositions à faire qui pussent être agréables au Directoire, il s'empresserait de lui en faire part ; que la meilleure serait, vu la circonstance, et les services de même espèce que la France avait rendus dans le temps aux Etats-Unis, qu'ils offrissent de faire un prêt à la France, soit en prenant des rescriptions bataves, pour la somme de quinze à seize millions de florins, ou de telle autre manière que ce fût.

M. Gerry, après avoir répondu d'une manière honnête, quoiqu'évasive, au premier article, ajouta, au sujet de l'emprunt, que leurs pouvoirs ne s'étendaient pas jusques-là, mais qu'il en conférerait avec ses collègues. Il est à observer que le ministre ne parlant qu'en français, je rendais en anglais à M. Gerry ce qu'il lui disait, et que, quoique sûr qu'il comprenait très-bien les réponses de M. Gerry, je les lui rendais en français. Nous quittâmes le ministre, qui reçut un courrier dans le moment, et il me chargea, en sortant, de répéter à M. Gerry et à ses collègues ce qu'il nous avait dit. Je rendis, d'après cela, à M. M. Pinckney et Marshall, devant M. Gerry, la conversation que nous avions eue avec le ministre.

Quelques jours après, M. Gerry me pria de retourner avec lui chez le ministre, et lui ayant renouvelé l'extrême désir qu'il avait de voir se rétablir l'union la plus parfaite entre les deux nations, il se retrancha sur l'insuffisance de leurs pouvoirs, et proposa, au nom de

ses collègues et au sien, qu'un d'eux partît sur-le-champ pour l'Amérique, avec les propositions que pourrait faire le Gouvernement Français.

Le ministre répondit qu'il faudrait six mois pour avoir une solution, et qu'il était intéressant d'avoir une résolution prompte ; qu'il désirait beaucoup communiquer souvent avec eux individuellement et amicalement : ce moyen lui paraissant le meilleur pour en venir à l'issue d'une négociation prompte, il se plaignit, à cet effet, de ce qu'il n'avait encore eu aucune communication avec eux.

Voilà, citoyen ministre, autant que ma mémoire peut me le rappeler, les particularités des deux seules conférences auxquelles j'ai assisté ; j'y ajouterai que personne n'a eu plus de désir que moi de voir réussir cette négociation.

Salut et respect,

(Signé) HAUTEVAL.

PIÈCES QUI ONT ÉTÉ ADRESSÉES AU GOUVERNEMENT FÉDÉRAL PAR M. SKIPWITH, CONSUL-GÉNÉRAL D'AMÉRIQUE A PARIS.

MR. SKIPWITH'S COMMUNICATIONS.

a.

Lettre de M. Skipwith à M. Pickering en Date du 4 Août, 1798, pour adresser au Secrétaire d'Etat des Etats-Unis l'Arrêté du Directoire du 31 Juillet de cette Année.

To the Secretary of State of the United States of America.

Sir,

I have the honor to send you enclosed, the official copy of an arrêté of the Executive Directory of the French Republic, concerning the french privateers in the West-Indies, which was transmitted to me by the french minister of foreign affairs.

I have the honor to be, sir, your most obedient humble servant,

FULWAR SKIPWITH.

Paris, August 4th, 1798.

Hon. Col. Timothy Pickering, Secretary of State
of the United States.

b.

Lettre de M. Skipwith à M. Pickering, du 8 Août, 1798, pour lui faire parvenir une Lettre du Ministre des Relations Extérieures de France au Sujet de l'Arrêté du Directoire du 31 Juillet.

Paris, 8th August, 1798.

Sir,

Having had the honor of transmitting to you, three official copies of the arrêté of the Directory, of the 13th

Thermidor,* concerning their privateers in the West-Indies, the present is merely to enclose you a copy of a letter which I yesterday received from the minister of foreign relations, on the subject of that arrêté.

I have the honor to be, Sir, your most humble servant,

FULWAR SKIPWITH.

The Secretary of State.

(Incluse du No. b.)

Lettre de M. de Talleyrand à M. Skipwith, du 6 Août, 1798, pour diriger l'Attention du Consul-Général d'Amérique sur les Dispositions favorables au Commerce des Neutres, que le Directoire avait montrées par l'Arrêté du 31 Juillet, et pour lui faire entendre, qu'avec des Dispositions analogues de la Part du Gouvernement Fédéral les Relations d'Amitié ne pourraient pas tarder à être rétablies entre les deux Nations.

(TRANSLATION.)

*The Minister of Exterior Relations to Citizen Skipwith,
Consul General of the United States of America.*

Paris, 19th Thermidor, 6th year of the
French Republic (August 6th, 1798).

Citizen,

You will have seen, in No. 961 of the *Rédacteur*, a copy of a decree made by the Directory, in order to cause the privateers to return within the rules and limits whence they ought never to have departed.

By this measure, foreign powers will be convinced, that the Executive Directory, when informed of the abuses which may be directed against them, takes every pains to stop them, and to prevent their return.

You will, doubtless, see in the intention and the acts of the Directory, cause for feeling a security with re-

* 31st July, 1798. The arrêté here referred to.

spect to the commerce of your fellow citizens, so long as it shall be confined within just bounds.

I wish, citizen, that for the good of the two countries, the conduct of the Federal Government may correspond with that of the Directory. In this supposition, the friendly relations of the two people would be soon re-established.

(Signed)

CH. MAU. TALLEYRAND.

c.

Lettre de M. Skipwith à M. Pickering, en Date du 22 Août, 1798, pour transmettre au Secrétaire d'Etat des Etats-Unis une Lettre de M. de Talleyrand, et une Circulaire du Ministre de la Marine, concernant la Sureté des Marins Américains en France, avec un Arrêté du Directoire, ordonnant de lever l'Embargo mis sur les Bâtimens d'Amérique dans les Ports de la République Française. M. Skipwith annonce, en même-temps, que le Directoire montre de fort bonnes Intentions par Rapport à la Sûreté du Commerce neutre, qu'il est Question de faire revoir tout le Code Maritime de France, et que les Tribunaux n'attendent que la nouvelle Legislation à ce Sujet, pour prononcer d'après les Intentions plus libérales du Directoire.

Consulate General of the United States of America.

Fulwar Skipwith, Consul General of the United States, near the French Republic, to Timothy Pickering, Esq. Secretary of State of the United States.

Paris, 22d Aug. 1798.

Sir,

With a copy of a letter I have just received from the minister of foreign affairs, I have the honor, under cover hereof, to transmit to you copies of two letters, which have been officially communicated to me, from the minister of marine, to all principal, civil and military officers, at the different ports of this republic, concerning the safety and protection of american citizens in general, and those seamen in particular, who were de-

tained, or are in confinement at those ports. Agreeably to the intimations contained in the minister's letter to me, I have this day made application to the minister of police in favour of the american seamen, who, by means of one of the public authorities at l'Orient, had been arrested as englishmen, and are at present confined at Orleans as prisoners of war. In a few days, I expect to obtain their liberation, and shall procure their passages home.

I have likewise the pleasure of forwarding to you an official copy of an arrêté of the Directory for raising the embargo, imposed by government on all vessels, belonging to the United States, in the ports of this republic.

I deem it my duty to observe, that from the informal communications, which I have recently and repeatedly had with some of the best-informed individuals of the government on the subject of american vessels and property, now under trial before the different tribunals of this republic, I have derived such informations of the present disposition and intentions of the Directory, as to be satisfied myself, that they will ere long endeavour to provoke in the legislature a revision of their maritime laws, and that such a system will be organized as will secure the most important rights of neutrality upon the seas : this pleasing event is generally expected, and will, I am persuaded, arrive before this can reach you. Though many of the late arrêtés of the Directory have certainly encouraged the tribunals in the most pernicious applications of existing laws in regard to neutral property captured and brought in for adjudication, yet it may not be unimportant to remark to you, Sir, that the Directory, however well-disposed, cannot change the conduct of the tribunals in regard to american and other neutral vessels now before them, without legislative interference, and that owing to particular circumstances, it appears evidently that some time is necessary for them to prepare and dispose that body to alter some laws, and make others, which shall cause the tribunals and privateers to respect neutrals in general, and the flag of the United States in particular : but

from the present manifest dispositions and endeavours of the Directory to produce that end, I am happy to add, that the tribunal of cassation, before whom appeals have been made on most of the american property condemned in France, appear disposed to procrastinate pronouncing upon them until the sentiment of the legislature shall be declared upon the laws which are operating against their success.

I have the honor to be, Sir, your most humble servant,

FULWAR SKIPWITH.

(Incluse 1. du No. c.)

Lettre de M. de Talleyrand à M. Skipwith du 20 Août, 1798, pour lui adresser Copies de deux Lettres Circulaires du Ministre de la Marine, et pour lui annoncer, que les Américains qui, sous la dénomination d'Anglois, étaient détenus dans les Prisons d'Orléans, seront relâchés sur la Déclaration de M. Skipwith, qu'ils sont véritablement des Américains.

(TRANSLATION.)

Liberty.

Equality.

The Minister of Exterior Relations to Mr. Fulwar Skipwith, Consul-General of the United States, to the French Republic.

Paris, 3d Fructidor, 6th year of the French Republic. (August 20th, 1798.)

I send you, Sir, copies of two letters written by the minister of marine to all the principal officers, civil and military, of the ports of the republic. Their contents will prove to you the attention of the government to remedy the abuses committed against its intentions.

With respect to the persons detained in the civil prisons of Orleans, because they are not possessed of papers to prove that they are not English, and who claim to be Americans, be pleased to call upon the minister general of police, to whose functions belong all the measures of safety. The minister of marine in-

forms me, that he has transmitted their petition to him, and I am going to write to him myself, in order to request him to admit your declaration in their favour, in the absence of other proofs.

Receive, Sir, the assurance of my consideration.

(Signed) CH. MAU. TALLEYRAND.

(Incluse 2. du No. c.)

Lettre circulaire du Ministre de la Marine, du 16 Août, 1798, adressée aux principaux Officiers, tant civils que militaires, des Ports de France, pour qu'ils accordent Protection et Sûreté aux Officiers et Equipages des Navires Américains, dans les Ports de la France.

Copy of a circular Letter, written by the Minister of Marine and the Colonies, to all the principal Officers of the Ports, civil and military, on the 29th Thermidor, 6th Year (16th of Aug. 1798).

(TRANSLATION.)

Our political situation with regard to the United States, Citizen, not having as yet undergone any change which can affect the respect due to neutral nations, I do not think I have need to remind you, that no injury should be done to the safety and liberty of the officers and crews of any american vessel found to be in order, and that the same conduct ought to be observed towards all passengers and other citizens of the United States, furnished with the necessary passports or protections. You will be pleased to use a vigilant attention, that the intentions of the government in this respect may be pursued by all those under you, and when any of them has departed from them, you will do justice upon the complaints which may be addressed to you, after ascertaining their validity.

The Minister of the Marine and the Colonies.

(Signed) E. BRUIX.

A true copy,

The Minister of Exterior Relations.

(Signed) CH. MAU. TALLEYRAND.

(Incluse 3. du No. c.)

Lettre circulaire du Ministre de la Marine du 11 Août, 1798, adressée aux Commissaires de Marine dans les Ports de France, pour leur ordonner de faire mettre en Liberté tous les Matelots Américains, qui auraient été arrêtés par suite de l'Embargo sur leurs Navires.

Copie d'une Lettre circulaire, adressée par le Ministre de la Marine et des Colonies aux Commissaires de Marine dans les Ports de la République.

Paris, le 24 Thermidor, an 6. (11 Août, 1798.)

Je remarque, Citoyens, par la correspondance de la plupart des administrateurs des ports, que l'embargo, mis récemment sur les navires américains, aurait occasionné la détention des équipages ; ce serait avoir bien mal compris les intentions du gouvernement, que d'avoir adopté une mesure qui paraît nous mettre dans une attitude hostile vis-à-vis des Etats - Unis, lorsque ses actes indiquent au contraire, qu'il désire entretenir la bonne intelligence entre les deux républiques. Je vous recommande donc, citoyens, d'ordonner, aussi-tot la présente, la mise en liberté de tous les Américains, qui auraient pu être considérés comme prisonniers de guerre, par suite de l'embargo sur leurs navires.

Vous voudrez, sans délai, me rendre compte de l'exécution de cet ordre.

Le Ministre de la Marine et des Colonies,

(Signé) E. BRUIX.

Pour copie véritable,

Le Ministre des Relations Extérieures.

(Signé) CH. MAU. TALLEYRAND.

True and exact copies.

FULWAR SKIPWITH.

(Incluse 4. du No. c.)

Arrêté du Directoire Exécutif, en Date du 16 Août, 1798, ordonnant de lever l'Embargo mis sur les Bâtimens Américains.

DÉPARTEMENT DES RELATIONS EXTÉRIEURES.

Liberté.

Egalité.

Extrait du Registre des Arrêtés du Directoire Exécutif, du 29 Thermidor, An 6 de la République Française, une et indivisible, (16 Août, 1798.)

Le Directoire Exécutif, considérant que, malgré les manifestations hostiles du Gouvernement des Etats-Unis, qui avaient déterminé un embargo momentané sur leurs bâtimens, il doit croire, qu'à moins d'être livré aux passions du Cabinet Britannique, ce gouvernement, fidèle aux intérêts de la nation américaine, prendra des mesures analogues aux dispositions pacifiques de la République Française, dès qu'il en recevra la confirmation : Et, voulant suivre les habitudes amicales et fraternelles de la France envers un peuple, dont elle a défendu la liberté : arrête ce qui suit :

Art. I. L'embargo mis sur les bâtimens américains sera levé immédiatement.

II. Le ministre de la marine et des colonies est chargé de l'exécution du présent arrêté, qui ne sera pas imprimé.

(Signé)

MERLIN, Président.

AUBUSSON, Secrétaire - General
par interim.

Pour copie véritable.

Le Ministre des Relations Extérieures.

(Signé) CH. MAU. TALLEYRAND.

Message du Président des Etats-Unis, au Congrès, en Date du 21 Janvier, 1799, pour transmettre à cette Assemblée le Rapport du Secrétaire d'Etat, contenant des Observations sur quelques unes des Pièces, dont il avait été donné Communication au Congrès.

Message from the President of the United States accompanying a Report of the Secretary of State, containing Observations on some of the Documents, communicated by the President on the 18th inst.—21st January, 1799.—Ordered to lie on the Table.—Published by Order of the House of Representatives.

Gentlemen of the Senate, and
Gentlemen of the House of Representatives,

According to an intimation in my message of Friday last, I now lay before Congress a report of the Secretary of State, containing his Observations on some of the documents which attended it.

Adresse du Secrétaire d'Etat au Président des Etats-Unis, en Date du 18 Janvier, 1799, en présentant son Rapport au Chef du Gouvernement Américain.

To the President of the United States.

The Secretary of State respectfully submits the following report on the transactions relating to the United States and France, since the last communications to Congress on that subject.

TIMOTHY PICKERING.

Department of State,
January 18, 1799.

Rapport de M. Pickering, Secrétaire d'Etat des Etats-Unis, sur les Relations entre la France et l'Amérique immédiatement avant la Rupture. Ce Rapport

porte principalement sur trois Points : 1. sur la Tentative du Gouvernement Français de repousser l'Accusation de Corruption, par Rapport aux £50,000, demandées par les Agens secrets du Directoire ; 2. sur la Tentative de détacher de ses Collègues Mr. Gerry, et de l'entraîner dans une Négociation séparée ; 3. sur le Dessein du Gouvernement Français, dans le Cas que la Négociation manquât, et qu'il s'ensuivit une Rupture entre les deux Etats, d'en rejeter l'Odieux sur les Etats-Unis d'Amérique. M. Pickering présente un Aperçu de la Marche de la Négociation, et cherche à prouver, que les Dispositions du Directoire Exécutif n'étoient pas véritablement Pacifiques, ni favorables aux Intérêts des Etats-Unis. Il termine son Rapport par une Analyse de l'Arrêté du Directoire Exécutif du 31 Juillet, 1798, et prétend, que le Directoire ne voulait pas une Négociation avec les Etats-Unis, mais une Aveugle Soumission aux Volontés de la France.

Report of the Secretary of State on the Transactions relating to the United States and France, since the last Communications to Congress on that Subject.

The points chiefly meriting attention are the attempts of the French Government,

1. To exculpate itself from the charge of corruption, as having demanded a douceur of fifty thousand pounds sterling (222,000 dollars,) for the pockets of the Directors and Ministers, as represented in the dispatches of our envoys :

2. To detach Mr. Gerry from his colleagues, and to inveigle him into a separate negotiation ; and

3. Its design, if the negotiation failed, and a war should take place between the United States and France, to throw the blame of the rupture on the United States.

The dispatches of the envoys, published in the United States, and re-published in England, reached Paris towards the last of May ; and, on the 30th of

that month, the French Minister, M. Talleyrand, affecting an entire ignorance of the persons designated by the letters W. X. Y. and Z.—calling them intriguers, whose object was to deceive the envoys—writes to Mr. Gerry, and prays him immediately to make known to him their names. Mr. Gerry, in his answer of the 31st, wishes to evade M. Talleyrand's request; and with reason, for he and his colleagues had "promised Messrs. X. Y. that *their* names should, in no event, be made public." Mr. Gerry, in his letter of October 1, in noting the repetition of M. Talleyrand's request for those names, states as an objection to giving them up "that they could be otherwise ascertained;" and that M. Talleyrand's messenger, admitting the fact that they were already known; immediately mentioned their names. Mr. Gerry, nevertheless, certified, in writing, the names of X. Y. and Z.; with the reserve" that they should not be published on his authority:" and besides formally certifying to M. Talleyrand the names of his *own private agents*, added, that they did not produce to his knowledge, credentials or documents of any kind."—"Credentials" in *writing* were certainly not to be expected to be produced by agents employed to make corrupt propositions: but Mr. Gerry had Mr. Talleyrand's own assurance that Mr. Y. was acting by his authority. It is recited in the envoys' dispatches, and upon Mr. Gerry's own report to his colleagues, that on the 17th of December, 1797, Mr. Y. "stated to him that two measures which Mr. Talleyrand proposed, being adopted, a restoration of friendship between the two republics would follow immediately; the one was a *gratuity of fifty thousand pounds sterling*; the other a purchase of thirty-two millions of dutch rescriptions," and, after conversing on these topics, Mr. Gerry and Mr. Y. rode to Mr. Talleyrand's office, "where Mr. Gerry observed to Mr. Talleyrand, that Mr. Y. had stated to him that morning, some propositions as coming from Mr. Talleyrand, respecting which Mr. Gerry could give

no opinion," and after making some other observations, Mr. Talleyrand answered, "that the information Mr. Y. had given him, (Mr. Gerry) was just, *and might always be relied on.*" This declaration *stamps, with the minister's authority*, all the communications made by Mr. Y. to the envoys. And Mr. Y. himself, who is Mr. Bellamy of Hamburgh, in his public vindication, declares, "that he had done nothing—said nothing—and written nothing,—without the orders of Citizen Talleyrand." The same may be asserted in regard to Mr. X.; for he first introduced Mr. Y. to the envoys; and his separate communications were substantially the same with those of Y. and both together were present with the envoys when the communications were more than once repeated.

It also deserves notice, that in stating the preliminary demands of the French Government, the private agents X and Y, and the minister, use a similar language. The agents declare, that the Directory are extremely irritated at the speech of the President, and require an explanation of some parts of it, and reparation for others; that this must give pain to the envoys, but the Directory would not dispense with it: and that as to the means of averting the demand concerning the President's speech, the envoys must search for them, and propose them themselves. Being asked to suggest the means, the answer is, "*money*"—the purchase of the Dutch rescriptions, and "the fifty thousand pounds sterling, as a *douceur* to the Directory."

The *minister* told the envoys, that the Directory were wounded by the President's speech; and, in his conversation with Mr. Gerry on the 28th of October, said "the Directory had passed an arret, which he offered for perusal, in which they had demanded of the envoys an explanation of some parts, and a reparation for others of the President's speech to Congress of the 16th May, 1797; that he was sensible that difficulties would exist on the part of the envoys relative to this demand; but that by their

offering money, he thought he could prevent the effect of the arret. Mr. Z. (the "interpreter") at the request of Mr. Gerry, having stated that the envoys have no such powers, Mr. Talleyrand replied, they can in such case take a power on themselves, and proposed that they should make a "loan." But this "loan" as will presently appear, did not mean the "money," which would prevent the effect of the arret. Mr. Gerry then making some observations, on the powers of the envoys, that they "were adequate to the discussion and adjustment of all points of real difference between the two nations; that they could alter and amend the treaty; or if necessary, form a new one;" added, that as to a loan, they had no powers whatever to make one, but that they could send one of their number for instructions on this proposition, if deemed expedient:—"that as he (Mr. Talleyrand) had expressed a desire to confer with the envoys individually, it was the wish of Mr. Gerry, that such a conference should take place, and their opinions thus be ascertained." "Mr. Talleyrand in answer said, he should be glad to confer with the other envoys, individually, *but that this matter about the money must be settled directly* without sending to America; that he would not communicate the arret for a week; and that if we could adjust the difficulty respecting the speech, an application would nevertheless go to the United States for a *loan*: now this matter of *the money that must be settled directly*, would only refer to the *douceur*; for a loan in the purchase of millions of Dutch rescriptions, or in any other form, could only be the subject of a *stipulation* to be *afterwards* fulfilled by the United States; but the *douceur* of fifty thousand pounds sterling, was a sum within the immediate reach of the envoys; for their credit would certainly command it: in fact, a mercantile house had offered to answer their draughts: and this, Mr. Talleyrand unquestionably well knew; for it was a member of the same house who first introduced the minister's agent Mr. X. to General Pinckney, in the manner stated in the envoys' dispatches. A collateral

evidence that in "this matter of the money that ~~must~~ be settled directly" Mr. Talleyrand referred only to the *douceur* arises from this circumstance: the very next day (October 29th) Mr. X. called on the envoys and said, Mr. Talleyrand was extremely anxious to be of service to them, and had requested that one more effort should be made to induce us to enable him to be so." After a great deal of the same conversation which had passed at former interviews had been repeated, the envoys say, "the sum of his proposition was, that if we would pay by way of fees (that was his expression) *the sum of MONEY demanded for PRIVATE USE*, the Directory would not receive us, but would permit us to remain in Paris as we now were; and we should be received by Mr. Talleyrand, *until one of us could go to America and consult our government on the subject of a loan.*"

Although the envoys' dispatches, and the facts and circumstances herein before stated, cannot leave a doubt that X, as well as Y and Z, was well known to Mr. Talleyrand, it will not be amiss to add, that on the 2nd of December, X, Y, and Z, dined together at Mr. Talleyrand's, in company with Mr. Gerry; and that after rising from table, the money propositions, which had before been made, were repeated in the room and in the presence, though perhaps not in the hearing of Mr. Talleyrand. Mr. X. put the question to Mr. Gerry in direct terms, either, whether the envoys would now give the *douceur*," or "whether they had got the MONEY ready." Mr. Gerry, very justly offended, answered positively in the negative, and the conversation dropped.

Mr. Z. who has avowed himself to be Mr. Hauteval, was the person who first made known to the envoys the minister's desire to confer with them individually, on the objects of their mission: he it was, who first introduced Mr. Gerry to Mr. Talleyrand, and served as the interpreter of their conversations: and in his letter to Mr. Talleyrand, at the close of Mr. Gerry's document, No. 35, he announces himself to be the agent of the minister, to make communications to the envoys.

Mr. Hauteval declares "his sensibility must be much affected on finding himself, under the letter Z, acting a part in company with certain intriguers, whose plan (he says) it doubtless was to take advantage of the good faith of the american envoys, and make them their dupes : " yet this person, the avowed agent of the french minister, apparently so anxious to screen himself from the suspicion of an agency in soliciting the bribe required by Mr. Talleyrand, did himself urge a compliance with that corrupt proposition*.

The sensation, which these details irresistibly excite, is that of astonishment at the unparalleled effrontery of Mr. Talleyrand, in demanding of Mr. Gerry the names of X, Y, and Z; after Y, had accompanied him on a visit to the minister, *with whom the conversation detailed in the printed dispatches then passed*, and who then assured Mr. Gerry, "that the information Mr. Y, had given him was just, and might always be relied on;" after Z. had in the first instance introduced Mr. Gerry to the minister, and served as their mutual interpreter, *and when the conversation between them had also been stated in the dispatches*; and after X, Y, and Z, had all dined together with Mr. Gerry at Mr. Talleyrand's table, on rising from which X and Y, renewed the proposition about the MONEY!—The very circumstance of Mr. Talleyrand's being continued in office, after the account of these intrigues had been published to the world, is a decisive proof that they were commenced and carried on with the privity, and by the secret orders of the Directory. It was to accomplish the object of these intrigues, that the American envoys were kept at Paris unreceived,

* Extract of a letter, dated June 15th, 1798, from Mr. King, minister of the United States in London, to the secretary of state.

"Col. Trumbull, who was at Paris soon after the arrival there of the commissioners, has more than once informed me, that Hauteval told him that both the *douceur* and the *loan* were indispensable, and urged him to employ his influence with the american commissioners to offer the *bribe* as well as the *loan*."

six months after their credentials had been laid before the Directory: and it was only because they were superior to those intrigues, and that no hopes remained of wheedling or terrifying them into a compliance, that two of them were then sent away, and with marks of insult and contempt.

2 The fact that the French Government attempted to inveigle Mr. Gerry into a separate negotiation will not be questioned: at first it was made *privately*, and under an injunction of *secrecy* towards his colleagues: it was afterwards plainly insinuated by the minister, in his letter of the 18th of March, 1798, in which he tells the envoys that the Executive Directory was disposed to treat with one of the three; and that one he openly avowed, in his letter of the 3d of April, to be M. Gerry. The *pretence* for selecting him was, that his "opinions presumed to be more impartial, promised in the course of the explanations, more of that reciprocal confidence which was indispensable." But when before, have their "opinions" been stated as a justifiable ground for rejecting the ambassadors of peace? Ambassadors too, of established probity, whose characters were of the first distinction in their own country, and whose demeanour, towards the government to which they were deputed, was decent and respectful? who had, with a frankness which the candour of their instructions warranted, communicated the important points which they contained, and who unremittingly and with the most anxious solicitude, entreated that the negotiations might be commenced? What more proper or more honorable qualities ought ministers deputed to negotiate with a foreign nation to possess? But why should a foreign government question the *opinions* of the ambassadors sent to negotiate with it on subjects of *difference* between the two nations? If wisely chosen, and faithful to the interests of their own country, they must of course possess different opinions from the government to which they are sent, the *differing opinions* maintained by the two nations on their respective rights and interests, being the cause and objects of the negotiation.—A government

really disposed to treat, on fair principles, would never object to the *opinions* of foreign ambassadors. It would receive them, and appoint its own ministers with proper powers to treat with them, propose its terms, and receive those offered; and discuss both: and, if then they could not agree, put an end to the *negotiation*. The French Government did not wish to *negotiate*, it desired to *impose* a treaty on the United States. To this practice, it had been accustomed towards the minor powers in Europe, whom it had subjected to its will: and it expected equal submission from the United States. Hence Mr. Talleyrand's secret declaration to Mr. Gerry "that, if he would negotiate, they would soon finish a treaty; *for the Executive Directory were not in the habit of spending much time about such matters.*" Hence the objections to Gen. Pinckney and Gen. Marshall: they manifested a discernment superior to the intrigues of the French Government, and an invincible determination not to surrender the honor, the interest, or the independence of their country. It was necessary, then, to get rid of them; and seeing that neither despair of negotiating, nor studied indignities could induce them to quit their posts, passports were sent to them to quit France: it was with difficulty that General Pinckney could obtain permission to stay two or three months for the recovery of his sick daughter, to whom an immediate voyage would probably prove fatal. Unembarrassed by the presence of these envoys, the French Government, if it really desired a treaty, on any terms, hoped to prevail on Mr. Gerry to negotiate separately, although from the first overture he declined, and continued to decline it. But, after the expulsion of his colleagues, it hoped, by its seductive arts, to prevail over his scruples, and gain his consent to terms which, while they were present, would be rejected; or, at all events, to retain him, with the semblance of negotiating, regularly, or informally, and thus keep the United States in the torpor of indecision, without preparation for offence or defence. Unfortunately, Mr. Gerry was induced, by the

threats of immediate war against the United States, to separate from his colleagues and stay in Paris; threats which, viewed with their motives, merited only detestation and contempt. Four or five months before, the threats of immediate orders to quit France, and the terrors of war, in its most dreadful forms, had been held up to all the envoys, to frighten them into a compliance with the groundless, unjust, and corrupt demands, of the French Government. Those threats had not been executed, and the unworthy purposes for which they had been uttered, had been obvious. Happily for the United States, the character of the French Government, as delineated in the official dispatches of all the envoys, and the knowledge of its conduct towards other countries, whose governments it had overturned, and whose people, in the names of liberty and equality, it had enslaved, so operated as not to leave us exposed to all the evils which *suspense* was calculated to produce. Mr. Gerry, indeed, resisted all the arts of the french minister to entice him into a formal negotiation, after that government had driven his colleagues from Paris: a negotiation which, in its nature, would have been a surrender of our independence, by admitting a foreign government to choose for us the minister who should represent our country, to treat of our important rights and interests, which that government had itself violated and deeply injured.

The Directory, and their minister, Mr. Talleyrand, hoped and expected that General Pinckney, and General Marshall, would voluntarily have quitted France, after the minister's letter, of the 18th of March, in which he made the offensive distinction between them and their colleague, Mr. Gerry, on the pretence that his "opinions" were more "impartial" than theirs. Accordingly, Mr. Talleyrand, in his letter to Mr. Gerry, of the 3d of April, says,—“I suppose, Sir, that Messrs. Pinckney and Marshall have thought it useful and proper, in consequence of the intimation which the end of my note of the 18th of March last presents, to quit the territory of the republic.” Yet Mr. Talleyrand had given them neither

passports nor letters of safe-conduct! The fact is, the French Government wished to avoid the odium of sending them away, and the blame of a rupture, which Mr. Talleyrand predicted would be the consequence; while it was privately intimated to them that they must leave the country. The minister's conduct on this occasion, towards General Marshall, (as detailed in his journal,) was particularly marked with indignities. When it was observed to Mr. Talleyrand, that this was not the manner in which a foreign minister ought to be treated, M. Talleyrand replied, that General Marshall was not a foreign minister, but was to be considered as a private american citizen; and must obtain his passport, like others, through the consul. To this it was answered, that General Marshall was a foreign minister,* and that the French Government could not deprive him of that character, which was conferred upon him, not by Mr. Talleyrand, but by the United States; and though the Directory might refuse to receive or to treat with him, still his country had clothed him with the requisite powers, which he held independently of France; that if he was not acceptable to the French Government, and in consequence thereof it was determined to send him away, still he ought to be sent away like a minister; that he ought to have his passports, with letters of safe-conduct which would protect him from the cruizers of France. Mr. Talleyrand replied, that if General Marshall wished for a passport, he must give in his name, stature, age, complexion, &c. to the american consul, who would obtain a passport for him: that with respect to a letter of safe-conduct, it was unnecessary, as no risk from the cruizers would be in-

* On the 9th of October, 1797, the day after the envoys had delivered to the minister a copy of their letter of credence, "cards of hospitality were sent to them and their secretaries, in a style suitable to their official character;" (Dispatches, page 32.) and, in the minister's letter to them of the 18th of March, 1798, he calls them "the commissioners and envoys extraordinary of the United States of America,---" (Dispatches, p. 171.)

curred. The result of these conversations was a plain demonstration of the intention of the minister, that, in consequence of his intimation at the close of his letter of the 18th of March, that the "opinions of two of the envoys were not agreeable to the Government of France," Generals Pinckney and Marshall *should appropriate to themselves* the character which the minister had drawn *generally*. The envoys, aware of this snare, in their answer of the 3d of April to the intimation that "the Directory was disposed to treat with *one* of the envoys," declare to the minister "that *no one* of the envoys was authorized to take upon himself a negotiation, evidently entrusted to the whole;" and, "that no two of them could propose to withdraw themselves from the task committed to them by their government, while there remained a possibility of performing it;" but that if "it should be the will of the Directory to *order* passports for the whole, or any number of them, it was desired that such passports might be accompanied with letters of safe-conduct to protect them against the cruizers of France.

These endeavours of the French Government, whether real or affected, to draw Mr. Gerry into a separate negotiation, constitute the substance of the correspondence between him and Mr. Talleyrand. They appear to merit consideration, in several points of view.

1. Because, if real, it was only in the hope and expectation, that, by intrigues and terrors, the French Government might influence Mr. Gerry to enter into a formal treaty, on the terms which he and his colleagues had repeatedly rejected as incompatible with the interest, honor, and independence of their country. For, at this time, Mr. Talleyrand had not renounced the demands of loans, and a *douceur*, as the indispensable preliminaries of a treaty. Accordingly, we see Mr. Talleyrand, in his letter of the 3d of April, to Mr. Gerry, proposed "to *resume* their reciprocal communications upon the interests of the French Republic and the United States of America." And, in his letter of

July 12th, to Mr. Gerry, having mentioned the arrival at Havre of a packet, the *Sophia*, from the American Government, he says, "until then I never supposed you entertained the design of embarking before we had come to an agreement upon the definitive articles to be ratified by your government."

2d. Because, if that government had so far succeeded, it would have insisted on its ratification by the President and Senate, on the ground constantly taken by Mr. Talleyrand, that the powers of the envoys being *several* as well as joint, Mr. Gerry, when *alone, even after the French Government had ordered his colleagues to leave France*, were adequate to the formation of the treaty; and that, therefore, the public faith would be violated, if it were not ratified. 3d. Because under such circumstances, the French Government, doubtless, calculated, at least, on a division of the public opinion in the United States, in favour of the ratification of such a treaty; by means of which it might *enforce* the ratification of such a treaty, or *effect still greater mischiefs*. 4th. But these endeavours to draw Mr. Gerry into a formal negotiation are chiefly remarkable, because they were persevered in during near five months, against his constant, direct, and positive refusals to treat separately; Mr. Talleyrand asserting, and Mr. Gerry denying, the competency of his powers.

We have seen the envoys, from the 6th of October, 1797, the date of their first letter to the french minister, to the 3d of April, 1798, when their last was delivered to him, expressing their earnest desire to enter upon and prosecute the great business of their mission: we have seen them, during that long period, patiently enduring neglect and indignities, to which an ardent zeal to re-establish harmony and peace could alone induce freemen to submit: We have seen them while held in suspense—neither received nor rejected—yielding to the importunities of *private* agents of the French Government, and hearing and discussing their propositions, insulting as they were, in the hope

that when these should be shown to be utterly inadmissible, others, founded in reason and equity, and in the usual course of diplomatic negotiation, might be brought forward. Doubtless, they also wished, when their astonishment at the first overtures had subsided, by listening still longer to such dishonorable propositions, to ascertain the true character of the French Government. We have seen them, after waiting five weeks from the presentation of a copy of their letters of credence, entirely unnoticed, "solicit an attention to their mission," and soliciting in vain. Thus denied an official hearing, they hoped, by an unusual step, to excite the attention of that Government: they determined to transmit to the minister a letter, representing the views of their own government in relation to the subjects in dispute with France. This letter, dated the 17th, was delivered the 31st of January, 1798, waiting near a month without an answer, and "still being anxious to hear explicitly from Mr. Talleyrand himself, before they sent their final letter, whether there were no means, within their power, of accomodating our differences with France, on just and reasonable grounds,—on the 27th of February they desired "a personal interview on the subject of their mission;" and afterwards a second interview. They remark on what passed at these meetings, "that the views of France, with regard to the United States, were not essentially changed since their communications with its un-official agents in the preceding October." At length they received Mr. Talleyrand's letter of the 18th March, 1798, in answer to their's of the 17th January. The minister's letter represented the complaints of France, as usual, charging the American Government with the inexecution of the treaties with France, with *dissimulation*, insinuating that our tribunals were subject to a *secret influence*—holding up the british treaty as replete with evil and injury, and "the principal grievance of the republic"—accusing the American Government of a wish to seize the first favourable occasion to consummate an intimate union

with Great Britain, and suggesting that a devotion and partiality to that power have long been the principle of the conduct of the Federal Government.

To this letter of the french minister, the envoys sent their reply on the 3d of April. This reply, and their former letter, detect the sophisms and erroneous statements of the minister; expose his naked assertions; refute his arguments; repel his calumnies; and completely vindicate the fidelity, the justice, and, as a neutral power, the impartiality of the Government of the United States: and, at the same time, exhibit the weighty and well-founded complaints of the United States against the French Republic.

Hitherto, instead of a desire to obtain a reconciliation, we can discover, in the French Government only *empty professions* of a desire to conciliate; while it haughtily refused to receive our envoys, and during six months, disregarded their respectful and ardent solicitations to negotiate: and, after *one* of them, whom it had induced to remain in France, had declared, that "*he had no powers to treat separately, that the measure was impossible;*" then the Directory expelled the other *two*!

If now we survey Mr. Gerry's individual correspondence, we shall find no solid evidence of any change in the disposition of the French Government.

In his first letter to Mr. Gerry, Mr. Talleyrand's artifice is visible: he addresses him as "envoy extraordinary of the United States of America, to the French Republic;" and proposes to him to "resume their reciprocal communications." Mr. Gerry apprehending that the minister intended to draw him into a negotiation, repeats what he had often before declared, that for him to treat separately was impracticable: and that he can only confer with him informally.

On the 20th of April, Mr. Gerry addresses a letter to the minister, and presses him to come forward with propositions for terminating all differences, restoring harmony, and re-establishing commerce between the two nations. He receives no answer. On the 28th he con-

fers with the minister, who says he cannot make propositions, because he does not know the views of the United States in regard to a treaty. Mr. Gerry gives him the information. He then promises in three or four days to deliver Mr. Gerry the project of a treaty : this promise was never performed. On the 12th of May, the new instructions of March 23d sent by the Sophia packet, reached Mr. Gerry ; and he gave immediate notice to the minister that he should return to America in the Sophia, as soon as she could be fitted for sea.

“ On the 24th of May, the minister sent his principal secretary to inform Mr. Gerry, *that his government did not wish to break the British treaty ; but expected such provisions as would indemnify France, and put her on a footing with that nation.*” Yet that treaty had been made, by the French Government, its chief pretence for those unjust and cruel depredations on american commerce which have brought distress on multitudes and ruin on many of our citizens and occasioned a total loss of property to the United States of probably more than twenty millions of dollars ; besides subjecting our fellow citizens to insults, stripes, wounds, torture and imprisonment. And Mr. Talleyrand in his letter of the 18th March to the envoys, declared that treaty to be “ the principal grievance of the republic.” But now, instead of breaking that treaty, France desires to be put on the same footing. This the United States would at any time have done, and the envoys were now explicitly instructed to do ; and seven months before, all the envoys, in their conversation with Mr. Bellamy (Y) the confidential and authorized agent of the french minister, told him “ that he might be assured their powers were such as authorized them to place France on equal ground with England, in any respects in which an inequality might be supposed to exist at present between them, to the disadvantage of France.”

The secretary also mentioned the claims of the american citizens on the French Republic : he said if the latter should be unable to pay them, when adjusted,

and the United States would assume and pay them, France would reimburse the amount thereof. This has the semblance of candour: but on the 4th of March, when the envoys were in conference with Mr. Talleyrand, and they disclosed their principal instructions, "General Pinckney and Mr. Gerry told him they were positively forbidden to assume the debts to our own citizens even if we were to pay the money directly to them." And doubtless it was because the proposition was already known to be inadmissible that it was now renewed.

The secretary and Mr. Gerry had also some unimportant conversation about the consular convention. And it is plain that the whole object of the secretary's visit was to amuse, by keeping alive Mr. Gerry's hopes of some pacific arrangements.

On the 26th of May, Mr. Gerry had a conference with the minister; pressing on this, as on former occasions, the necessity of sending a minister to the United States, with powers to negotiate; to which, he says, the minister acceded; but afterwards explained himself to mean a minister to *reside there after the ratification of the talked of treaty*.

Such are the proceedings of the French Government, by its minister, Mr. Talleyrand, before the arrival of the printed dispatches of the envoys. We discover nothing but a proposition for treating with Mr. Gerry alone—which he had repeatedly declared to be *impossible*—and on terms which Mr. Gerry himself, as well as the other envoys, had long before pronounced to be utterly inadmissible, because directly repugnant to their instructions. We shall now see, by an examination of Mr. Gerry's subsequent communications, that the publication of the envoys' dispatches, far from causing a discontinuance of negotiations with him, or any change in the disposition of the French Government more unfriendly to the United States, incomparably greater zeal for negotiating was exhibited afterwards than before.

On the 30th of May, the minister announces to Mr. Gerry the publication of the envoys' dispatches. In his

letter of the 27th of June, he says this incident only "for a moment suspended the principal object"—the negotiation with Mr. Gerry: and in his letter of June the 10th he declares, that "the French Government superior to all personalities, to all the manœuvres of its enemies, perseveres in the intention of conciliating with sincerity all the differences which have happened between the two countries." On the 18th of June the minister sends him a plan for conducting the negotiations; for the first time states the "three points" on which he says "all negotiations between France and the United States must essentially rest;" and "gives (what he calls) a large developement" of them; concluding by pressing him to remain at Paris, to accelerate the negotiation—"the drawing together of those ties which the French Republic and the *true Americans* have regretted to see *relaxed*."

On the 27th of June the minister again writes to Mr. Gerry, and in language the most importunate, such as had never before been used, urges him not to withdraw, "when the French Government, superior to all resentments, and never listening to any thing but justice, manifests itself anxious to conclude a solid and mutually satisfactory agreement." The minister even observes that the first of the "three points" mentioned in his preceding letter (respecting amicable declarations about mutual recriminations) might be postponed—that the third (about the consular convention *) would doubtless experience no difficulty on either side, after the second should be amicably settled: that it was to the *second* therefore they should first attend; it being so much the more important, as it embraced the source of all the differences between the two nations. And on the 22d of July, the minister renounces all demands of "loans and explanations on the subject of speeches;" and even affects to be hurt that Mr. Gerry should have mentioned them: although both he and his private agents had, be-

* Voyez la correction de ce passage à la fin du rapport.

fore, so long and so obstinately persevered in demanding them of the envoys, as the indispensable preliminaries to a negotiation. And doubtless it is partly owing to the publication of their dispatches, thereby exposing to the world those shameless demands, with the scandalous proposition of the *douceur*, that they are now relinquished.

In adducing these circumstances to shew the *increased zeal* of the French Government, since the publication of the dispatches, to negotiate on its differences with the United States, it is not to be understood, that they afford a shadow of evidence of its sincerity. But as *professions*, verbal or written, furnished the only ground on which Mr. Gerry could form his opinion, that “before the arrival of the dispatches of the envoys, the minister was sincere and anxious to obtain a reconciliation,” much more, professions stronger and more importunate, afterwards made, afford proportionably higher evidence of sincerity. But the present details demonstrate that all those professions were merely ostensible. In the minister’s last mentioned letter, after saying that his “second point*” was most important, “*as it embraced the source of all the differences,*” and that to this they should *first attend*—he purposely * forgets it, and sends Mr. Gerry a note on the *consular convention*, of all possible subjects in difference the most insignificant; as it would have expired by its own limitation in two years and a half; within which time, the commerce of France, judging from its present state of annihilation, would probably not furnish a single ship to visit the ports of the United States. In his next letter, dated July 6th, he pursues his speculation on the *consular convention*, and sends Mr. Gerry two more notes upon it; complaining that he had not transmitted to him his opinion upon his first note, and recommending the two last to his at-

* Voyez les corrections de M. Pickering à la fin du rapport.

tion : although Mr. Gerry had repeatedly and positively declined a *formal discussion*, such as the minister now urged in writing. Mr. Gerry states also that this first note of the minister on the consular convention, was sent to him six weeks after he had demanded his passport, and when his baggage was actually on board the *Sophia*.

In a word, the more clearly the impossibility of entering on a formal negotiation appeared, the more was it pressed by the french minister. Mr. Gerry in his letter to Mr. Talleyrand of July 20th as justly as pointedly exposes the boasted zeal of the minister.—“ You was the first, you affirm, to press seriously the negotiation ; you will agree with me that the merit would have been greater, had the measure itself been *feasible*.” Again he says to the minister, “ you frequently remind me of your exertions (to negotiate) which I am disposed as much as possible to appreciate, regretting at the same time *their circuitous direction*.”

From this detail of facts the following are the necessary conclusions : that by the exclusive attentions of the minister to Mr. Gerry, the French Government intended to excite the jealousy of his colleagues, to promote dissensions between them, to separate him from them, and induce him to remain in France ; expecting either to seduce him into a formal negotiation of a treaty, on terms exclusively advantageous to France, and injurious and dishonorable to the United States ; or failing in this, to hold the United States in *suspense*, and prevent any measures for our security—in the event of war ; while we, amused and deluded by warm but empty professions of the pacific views and wishes of France, and by “ informal conferences,” might wait in spiritless torpor, hoping for a peaceful result : and, that by this course of proceeding—this ostentatious display of zeal to adjust differences, and restore harmony and a friendly intercourse between the United States and France, the French Government intended, in case of a rupture, to throw the blame on the former.

It is necessary to make a few observations on the decree of the Executive Directory of the 31st July, 1798.

This decree was sent after Mr. Gerry to Havre, and he supposes that the official impediments, which for several days prevented his sailing, are to be ascribed to the minister's desire of sending the decree by him. The minister introduces it as "a part of the measures which he had announced to Mr. Gerry on the 22d of July." In his letter of that date to Mr. Gerry, the minister says, "by information which the government has just received, it indeed learns that violences have been committed upon the commerce and citizens of the United States in the West-Indies, and on their coasts. Do it the justice to believe that it needs only to know the facts, to disavow all acts *contrary to the laws of the republic and its own decrees*. A remedy is preparing for it and orders will soon arrive in the West-Indies, calculated to cause every thing to return within its just limits." This "remedy" is the decree of the 31st of July.

1. The first article of this decree confines to the special agents of the Directory, the right of issuing commissions to cruizers; and requires these to conform themselves to all the laws relative to cruising and prizes, and especially to those of the 1st of October 1793. Although the injunction to conform to *all the laws* of the republic relative to cruising was ominous, as the *laws* most recently promulgated and best known, were themselves the sources of the depredations and evils of which we complained; yet not imagining that a decree introduced with so much solemnity, of which one copy was sent to Mr. Gerry, another to the american consul general at Paris, and a third to Mr. Létombe, late consul général of France, all to be communicated to the executive of the United States, and all of which have been received, would be *a mere parade of words*, I was disposed to conclude that the law of the 1st of October 1793, to which all cruizers were *especially* enjoined to conform, might contain regulations that would afford some relief from French depredations. By the favour of Mr. Lét-

tombe, I obtained a copy of that law ; and to my astonishment found its object, conformably to its title, was “ to determine the mode of dividing prizes made by French vessels on the enemies of the republic*.” And the only restriction, in this lengthy law of six-and-forty articles, imposed on the individuals, officers and all others, composing the crews of their armed vessels is, “ that they shall not sell before hand their eventual shares of prizes.”

2. The second article declares that all commissions granted by the agents in the French colonies in America, to fit out vessels for cruizes, or for war and commerce, shall be void in thirty days after the publication of the decree in these colonies.

It has been supposed that by this regulation the agents may gather a fresh harvest of fees for new commissions ; and that this would be its only effect. The agents had before however taken care of this ; they had been accustomed to limit the duration of privateer's commissions ; and if they continued to cruize after their expiration, such privateers should have been considered as destitute of commissions, and consequently if they made any captures, as pirates : but the agents knew their interest better : they did not punish the piratical captives, they did not declare their captures void, and restore the property to the neutral owners, but, declaring such captors to have no title to the captured vessels and cargoes, took the whole to themselves. A remarkable instance occurred in the last year, in the case of the East-India ship *New Jersey*, belonging to Philadelphia, to redeem which, the owners have paid to GENERAL HEDOUVILLE, *special agent of the Executive Directory* in St. Domingo, upwards of two hundred thousand dollars in cash. Whether any, and what portion of such prize money goes into the chest of the republic, I am not informed.

* DECRET de la Convention Nationale du 1. Octobre 1793, l'an 2nd de la République Française.

Qui détermine le mode de repartition des prises faites par les Vaisseaux Français sur les ennemis de la République.

3. The third article declares that all agents and other deputies in the *neutral possessions*, appointed to decide there on the validity of prizes taken by the French cruizers, and who shall be suspected of having a direct or indirect interest in the cruizers, shall be immediately recalled.

It is remarkable that this article, apparently designed to correct the monstrous abuse of public officers sitting in judgment in their own causes, should be limited to such of the French agents and their deputies as were appointed to reside in *NEUTRAL places*. I do not know that an instance of the kind exists. For although the French privateers and their prizes find asylums in the swedish and danish islands, yet the papers are carried thence to Guadaloupe, and there the captured vessels receive their doom, under the superintendence of another *special agent* of the *Executive Directory*, Victor Hugues. And even the captured american vessels carried into the West India ports of Spain and Holland, do not there receive sentence: these cases are decided by the agent or his deputies, or other french tribunals, established in the island of St. Domingo, frequently, if not generally, in the absence of the masters and supercargoes. The french agents and judges find no difficulty in this mode of proceeding; *justice* being administered with more *facility* and *dispatch* when only *one* of the *parties* is present at the trial; especially when the agents or other judges are interested in the privateers; and this the present decree impliedly allows, the penalty of "recall" being applicable, as above suggested, to such agents only as reside in *neutral places*, if any such there be.

It is also remarkable that this decree, which was to give the United States a proof of the justice of the french government (a government, Mr. Talleyrand says "never listening to any thing but justice,") and of its desire of a reconciliation with the United States, should be limited to the *West Indies*, when as *great*, if not as *numerous abuses*, were practised by french agents and tribunals in Europe, and even France itself, as in her remote pos-

sessions. This too many of our citizens well know. For captures and condemnations are not the less *abuses*, because made under the colour of *municipal* laws and decrees which directly violate treaties, the law of nations and the plainest principles of justice. At present I shall only mention that in a report made by Major Mount-florence, chancellor of the american consulate at Paris, to General Pinckney in December 1796, and which was laid before Congress in 1797, he states "that the tribunals of commerce in every port of France, take cognizance in the first instance, of every matter relative to captures at sea:" and "these tribunals (he adds) are chiefly composed of merchants, and most of them are, directly or indirectly, more or less interested in the fitting out of privateers; and therefore are often concerned in the controversies they are to determine upon."

4. The fourth article requires the special agents of the Executive Directory at Cayenne, St. Domingo, and Guadaloupe, studiously to take care, that the interests and property of vessels, belonging to neutrals and allies, be scrupulously respected.

We have too long witnessed the studious and scrupulous care of these gentlemen respecting the property of neutrals and allies, and experienced its ruinous consequences; and as the same laws, which authorized that "care," remain in force, and with a fresh injunction of a strict conformity to them, we can expect only a continuance of the same abuses.

5. The fifth article enjoins the special agents of the Executive Directory, consuls, and all others invested with powers for that purpose, to cause to be arrested and punished all who shall contravene the provisions of the present decree.—Unfortunately, these special agents, consuls, and their deputies, are themselves the *aggressors*, and justify their proceedings under the laws of the republic, and the decrees of the Executive Directory.

This analysis of the present decree manifests its futility; and, with some remarks on its preamble, will demonstrate it to be a bold imposture; intended to mis-

lead the citizens of the United States into a belief that the french government was going to put an end to the depredations of french cruizers on american commerce ; while the means proposed are so gross as to be an insult on our understandings.

The preamble to the decree sets forth, “ that information, *recently* received from the french colonies and the continent of America, leaves no room to doubt that french cruizers, or such as call themselves french, have infringed the laws of the republic relative to cruizing and prizes ;” and “ that foreigners and pirates have abused the latitude allowed at Cayenne and the West India islands, to vessels fitted out for cruizing or for war and commerce, in order to cover with the french flag their extortions, and the violation of the respect due to the law of nations, and to the persons and property of allies and neutrals.” And Mr. Talleyrand, in one of his letters before noticed, dated the 22d of July last, speaks of this information as having been “ just received.”

But what has been more notorious than french depredations on neutral, and especially on american commerce, in violation of treaties and the law of nations ? These have been coeval with the existing war in Europe ; but were multiplied under the loose decree of the Executive Directory passed the 2nd of July 1796, declaring that “ the flag of the French Republic will treat neutral vessels, either as to confiscation, to searches, or to capture, in the same manner as they *shall* suffer the English to treat them.”

This decree committed the whole commerce of neutrals, in the first instance, to the rapacity of french privateers, and then to the discretion of their agents, consuls, and tribunals. These had only to say, truly or falsely, that the english treated neutrals in any given way, and then they were to treat them in the same manner. Accordingly we have seen Santhonax and Raimond, commissioners of the French Government in St. Domingo, in their adjudication of an american vessel, on the 10th of January 1797, declare, “ that the resolution (or de-

crec) passed by the Executive Directory, on the 2nd of July 1796, prescribes to all the armed vessels of the republic, and the armed vessels belonging to individuals, to treat neutral vessels in the same manner as they suffer the English to treat them;" and "that it is in consequence of the above resolution of the Executive Directory, and in consequence of the manner in which the English Government in the Antilles *treats* neutral vessels, that the commission passed their resolution of the 7th January, by which they declare all neutral vessels bound to or from English ports, to be legal prize." From these facts, and the tenour of the decree itself, we can form but one conclusion, *that it was framed in such indefinite terms, on purpose to give scope for arbitrary constructions, and consequently for unlimited oppression and vexation.*

But without waiting for this decree, the commissioners of the French Government, at St. Domingo, began their piracies on the commerce of the United States: and in February 1797, wrote to the minister of marine, (and the extract of the letter appeared in the official journal of the Executive Directory of the 5th of June) "that having found no resource in finance, and knowing the unfriendly dispositions of the Americans, and to avoid perishing in distress, they had armed for cruizing; and that already 87 cruisers were at sea; and that for three months preceding, the administration had subsisted, and individuals been enriched, with the product of those prizes"—"that the decree of the 2nd of July was not known by them until five months afterwards. But (say they) the shocking conduct of the Americans, and the *indirect* knowledge of the *intentions* of our government, made it our duty to order reprisals, even before we had received the official notice of the decree,"—"they felicitate themselves that american vessels were daily taken; and declare that they had learnt, by divers persons from the continent, that the Americans were perfidious, corrupt, the friends of England, and that therefore their vessels no longer entered the French ports, unless carried in by force."

After this recital, before the council of 500, Pastoret makes the following remarkable reflections :

“ On reading this letter, we should think, that we had been dreaming, that we had been transported into a savage country, whose men, still ignorant of the empire of morals and laws, commit crimes without shame and without remorse, and applaud themselves for their robberies, as Paulus Æmilius, or Cato, would have praised themselves for an eminent service rendered to their country. Cruizers armed against a friendly nation ! Reprisals, when it is we ourselves who attack ! Reprisals against a nation that has not taken a single vessel of ours ! Riches acquired by the confiscation of the ships of a people to whom we are united by treaties, and whom no declaration of war had separated from us !”—The whole discourse of the agents may be reduced to these few words : “ Having nothing wherewith to buy, I seize ; I make myself amends for the property I want, by the piracy which enriches me ; and then I slander those whom I have pillaged !”—This is robbery, justified by selfishness and calumny.” Yet Santhonax, one of these “ robbers,” and the chief of those directorial agents, continued in office, and going a few months afterwards from St. Domingo to France, was received as a member into one of the legislative councils.

Pastoret also adverts to a letter from *Merlin*, then minister of justice, and now a member of the Executive Directory, to Mr. Skipwith, consul-general of the United States, which also appeared in the journal of the Directory ; and quotes the following passage : “ Let your government break the inconceivable treaty which it concluded on the 19th of November, 1794, with our most implacable enemies ; and immediately the French Republic will cease to apply in its own favour the regulations in that treaty, which favour England to the injury of France ; and I warrant you, that we shall not see an appeal to those regulations, in any tribunal, to support *unjust pretensions*.” Have I (says Pastoret) read this rightly ? *Unjust pretensions* ! could it be possible

that they should have thus been characterized by the minister who, is himself their agent and defender?"

After all, this "inconceivable british treaty," was itself but a *pretext* to countenance the "unjust pretensions," as Merlin himself calls them, used by the French Government in its tribunals, for the purpose of condemning american vessels. The details I have already given prove it. I beg leave to adduce other evidence. It is the testimony of Mr. Barlow, an American by birth, but for several years past a citizen of France, a man of acknowledged discernment and talents, devoted to the French Republic, and intimate with her leading men. Mr. Barlow has long resided at Paris, and cannot have mistaken the views of the French Government, nor the motives of its conduct. Mr. Barlow's letter, dated at Paris the first of March, 1798, to his brother in-law, Mr. Baldwin, has doomed the writer to infamy: yet, when it describes the principles and conduct of the French Republic, it merits attention. He says, "that act of submission to the British Government, commonly called JAY's treaty, is usually considered, both by its friends and enemies, as the sole cause, or at least the great cause of the present hostile disposition of the French Republic towards the *United States*. This opinion (says he) is erroneous." He then proceeds to an enumeration of a variety of matters, which he says have influenced the conduct of France. But the most provoking, and the most unpardonable of all the offences of the United States against France, was, fortunately, not an act of the *government*, but an act of the *people*. The *freemen* of the United States, "the true Americans," dared to exercise their independent rights, and contrary to the wishes of the French Government, and the endeavours and practices of its minister, Adet, elected Mr. Adams to the office of *President*. Mr. Barlow's observations on this event, further develope the character and the principles of that government. He says, "when the

election of ADAMS was announced here, it produced the order of the 2d of March,* which was meant to be little short of a declaration of war : " the government here was determined to fleece you of your property, to a sufficient degree to bring you to your feeling, in the only nerve in which it was presumed your sensibility lay, which was your pecuniary interest." And what was " this feeling" to produce ? The answer is obvious,—*Submission to the will of the French Government.* The mystery of french politics is here unveiled. The United States *did not submit* : Hence the non-reception of her envoys, and their haughty treatment : Hence the insulting demands of tribute as a preliminary even to their reception ; and hence the expulsion of two of them from France.

But to return to the decree of the Executive Directory of the 31st of July last.

I have already shewn, that the mass of depredations on the commerce of the United States, under the french flag, of which we so justly complain, are not those committed, as the Directory in their preamble insinuate, by " foreigners and pirates," but by french armed vessels commissioned by the government or its agents ; or, whether commissioned or not, whose acts in capturing american vessels receive the sanction of french consuls, of french tribunals, and of the special agents of the Directory. I have shewn that the laws of France, and the directorial decrees, are themselves the sources of those violations of treaties and the laws of nations which have caused such immense losses to the citizens of the United States. And to the proofs already offered, that the information of such abuses and aggres-

* It will be recollected that this was the décret of the Executive Directory, ordering the capture and condemnation of american vessels, not having a *rôle d'équipage*—that fruitful source of plunder to Frenchmen and of ruin to american citizens ; and which also declared all american seamen, making a part of the crew of enemies ships, even when put on board of them by force, to be *Pirates*, and directed them to be treated as such.

sions, particularly in the West Indies, and on the coast of America, was not, as the preamble suggests, "but recently received;" I may add, that their "special agents" authorized those depredations and violations of the laws of nations, by decrees assuming the laws of the republic, or the acts of the Executive Directory, for their basis, by decrees printed and published, and undoubtedly from time to time reported by those agents to the Directory itself. Further, these outrages on the american commerce have, for years past, been the theme of every tongue, and filled columns in our newspapers; those newspapers, which Mr. Barlow says, "the office of foreign affairs at Paris regularly receives." I will conclude this point with the testimony of Mr. Létombe, late consul-general of the French Republic, and still residing in Philadelphia. He has, long since, and repeatedly, assured me, that he collected all those accounts of depredations and outrages committed by french privateers, and transmitted them to his government at Paris.

In relation to the depredations and outrages committed by the French on the commerce of the United States, I have said, that as *great*, if not as *numerous* abuses, were practised by the French in Europe, and even in France itself, as in her remote possessions: and that this fact was but too well known to our citizens, who had felt severely their effects. Among these we have seen the case of the ship Hare, captain Hayley; but never in all its disgusting features. With this I will close my observations on the preamble of the directorial decree of the 31st July.

Extract of a Letter from Rufus King, Esq. Minister of the United States in London; dated Sept. 3d, 1798, to the Secretary of State of the United States.

"The pretence for this arrêté, (the decree of the Directory of July 31st.) is of a piece with the vindication of Talleyrand, respecting X. Y. and Z. and the

justice and sincerity of the Directory should be ascertained, not by their word, but by the following contemporaneous fact."

"Hayley, an american citizen, master of the american ship *Hare*, lying in the port of London, laden with a rich cargo, the property of Americans, and bound to New York, went with my passport from London to Paris, where, in a personal interview, not with the agents of the minister of marine, but with the *minister himself*, he disclosed his plan of bringing the ship *Hare* and her cargo into France; and to enable him to receive the profits of the fraud, without risking the punishment of piracy, he demanded and received from the minister of marine, a commission, naming him the commander of a privateer that did not exist; with which, in his pocket, he returned to London; and soon after carried the ship *Hare* and her cargo as a prize into France."

"The ship and cargo were both claimed by the american owners; and, upon the unveiling of this infamous proceeding before the lower tribunals, the judges hesitated; and finally refused to sanction so unheard of a fraud; though, instead of restoring the property to its lawful owners, they, on some frivolous pretence, adjudged both ship and cargo to be good prize to the *nation*—lately the tribunal in the last resort, upon the appeal of Hayley, has reversed the judgment of the lower court, and "decreed the ship and cargo to be condemned as good prize to this renegade."

If a transaction more grossly corrupt and infamous has occurred in the West Indies—I have not heard of it; and yet with this case of unequalled infamy and corruption before them, sanctioned by the highest tribunals of the nation, the Directory expect to amuse us with a disavowal of the conduct of a few subaltern agents in a remote part of their dominions!

Besides the communications from Mr. Gerry, I have received from Fulwar Skipwith, Esq. consul-general of the United States at Paris, three letters, dated the 4th,

8th, and 22d of August, copies of which, and of the papers therein referred to, are herewith presented, excepting the decree of July 31, which appears among the communications from Mr. Gerry. Mr. Skipwith's letter of Aug. 22, with its enclosures, was delivered to me by Doctor Logan; I had previously received the original, which had been brought over by Mr. Woodward of Boston.

DOCTOR LOGAN having been the bearer of the last-mentioned communications from the French Government, and his embassy having not only engaged the attention of the public, but been made the subject of debate in Congress, I trust it will not be deemed improper to introduce into this report some circumstances respecting it.

On the 12th of November the doctor came to me at Trenton; he advanced with eagerness, and handed me the packet from Mr. Skipwith. On examining its contents, I told the doctor that I already possessed the same papers. I made some remarks on the decree of the Directory of the 31st of July, to shew, that it was only ostensible and illusory; and that it would not give any relief to the commerce of the United States. The doctor, not contesting my arguments or opinion, said that more was intended to be done; but that the Directory could not accomplish it of themselves; seeing it depended on the *laws* which the *legislative councils* alone could change. I answered, that this was easy to be done—that as the Directory, on the 18th Fructidor, (Sept. 4, 1797) had garbled the two councils, and banished some and dismissed others of the best members—all who were firmly opposed to their views, and as on the new elections to supply the vacancies, and the new third of the councils, the Directory sent home every new member who was not agreeable to them—every body must see, that the Directory had but to declare its *will*, and it would be obeyed. The doctor said, that the Directory was very well-disposed towards the United States, and desired a reconciliation; that

they would promote a revision of the laws in regard to privateering, so as to put the rights of neutral nations on a just footing: but that it would take some time to bring this about, "*the people concerned in privateering having gained a very great influence in the two councils.*"!—!—! Is it necessary to enquire how this "very great influence" has been obtained? Are the leading members owners of privateers? Or do they receive their shares of prize-money from those who are? Do the legislative councils really act independently of the Directory? Or does the same "influence" actuate both?—the printed dispatches of our envoys, under date of October 29th, 1797, state, on the information of Mr. Talleyrand's private agent X. that Merlin, one of the members, and now or late President of the Directory, was to receive no part of the *douceur*, demanded of the envoys, *because he was paid by the owners of privateers*, and in respect to the *loan*, then demanded, on which subject it was suggested that one of the envoys should go to America to consult the government, the envoys "asked Mr. X., if in the mean time, the Directory, would order the american property, not yet passed into the hands of the privateers' men, to be restored? He said explicitly that they would not. The envoys asked him, whether they would suspend further depredations on our commerce? He said, they would not:—but Mr. Talleyrand observed, that on this subject we could not sustain much additional injury, because the winter season was approaching when few additional captures could be made." Here we see our envoys enquiring;—not whether the *two councils* would suspend those depredations—but whether the *Directory* would do it: and Mr. Talleyrand's agent X. without intimating that the Directory *wanted power*, or that they could only "endeavour to provoke in the legislature, a revision of their maritime laws."—answered peremptorily, *that the DIRECTORY would not suspend the depredations.* The truth is, that it was an act of the *Directory alone*,

(their decree of the 2d of March, 1797,) which authorized and produced more extensive depredations on the commerce of the United States, than any other decree or law of the French Republic. To effect a repeal of that decree, no application to the legislative councils could be necessary. They could also have repealed another of their own decrees, that of the 2d of July, 1796, which subjected neutral property, and particularly that of american citizens, to the discretion of their consuls and cruizers in the european seas, as well as of their privateers and agents in the West Indies, and on which these agents have founded other numerous decrees, which have occasioned those shocking depredations and abuses there and on the coast of the United States, which the Directory by their decree of the 31st of July last *affect* to restrain. When the Executive Directory wished to enlarge the field of depredations on neutral commerce, and on the 4th of Jan. 1798, proposed to the two councils the project of the iniquitous law, “to declare to be good prize every vessel and her cargo, to *whomsoever belonging*, if any part of the cargo came from England, or her possessions”—there was a ready obedience. “The Directory thinks it *urgent* and necessary to pass the law.” The plan of a decree is reported to the Council of Five Hundred on the 11th; and, “urgency” being declared, is immediately and unanimously adopted. It goes to the council of ancients—that council approves the act of “urgency;” and, on the 18th of January, the project of the Directory becomes a law.

This law was necessary for the French Government: so many american vessels had been entrapped by the Directory’s decree of March 2nd 1797, requiring the *rôle d’équipage*, that the residue were now generally provided with that paper: some new pretext was therefore requisite for “fleeing” the people of the United States of their property: and an ordinance of one of the kings of France, made near a century past, having declared lawful prize, the vessels and their cargoes in which was

found english merchandize *belonging to enemies* ;"—The Directory declare that the provisions of this ordinance *ought to be extended*, to comprehend the vessels and cargoes of *friends* ; that is of allied and neutral nations. The Directory knew that the United States, whose inhabitants were chiefly *cultivators*, required a greater supply of english manufactures than any other country of equal population ; and those manufactures too, were, from the course of american commerce, combined with almost all our mercantile operations and pervaded entirely our great coasting trade. Hence it is evident that the law was chiefly aimed against *them*.

It will be remembered also, that this law was passed while our three envoys were at Paris, where they had passed three months unheeded by the French Government, except by its indignities—and where they had in vain solicited to be heard on the just claims of our citizens, plundered and ruined under the former decrees of the republic. This time was preferred, in order to add insult to injury. The envoys had firmly resisted her demands of loans and *douceurs* ; and when speaking of their *country*, dared to intimate, that it was *independent* : it was therefore requisite on the french system, to " chastise," as well as to " fleece" it.

In closing this subject, it will be proper to notice an assertion of Mr. Talleyrand in a conversation with the envoys on the 2d of March, 1798. In reply to some observations of his respecting the proofs of friendship required by France from the United States, General Pinckney observed, " that the envoys being in France was a proof of the friendly disposition of our government ; and that while they were there, the French Government had passed a decree for seizing neutral vessels having on board any article coming out of England ; which in its operation would subject to capture all our property on the ocean. Mr. Talleyrand replied, *that this was not particular to us, but was common to all the neutral powers*." This assertion of Mr. Talleyrand is not true. Although the decree in its terms is general,

and applicable to all the neutral powers, yet in its operation, it was not designed to be, and has not been so applied—It has not touched a vessel of Prussia. The motives to this exemption are obvious : France wished not by irritating Prussia, to add so powerful a nation, and one so near at hand, to the number of her enemies, while her peace with Austria remained precarious. But this exemption of prussian vessels from the operation of a general law, merits particular notice. It demonstrates that there exists in the French Republic a dispensing power—a power above the laws—a power which can prevent their execution ; and it is alike demonstrable that this sovereign, controuling power, can exist, and in fact does exist, in the Executive Directory. It might then, if the Directory desired it, be exercised in the exemption of american as well as prussian vessels : But the Directory do not desire it : we have not yet been sufficiently “ fleeced” and “ chastised.”

Mr. Skipwith's letter of the 4th August, enclosing the decree of the Executive Directory already noticed, passed the 31st of July, respecting french depredations in the West Indies, and on the coast of the United States. His letter of the 8th August enclosed Mr. Talleyrand's letter to him of the 6th, respecting that decree in which it is plain that the minister supposed the world, and particularly the United States, will be amused by that illusory device, and imagine that it was intended to stop abuses, and give security to neutral commerce.

Mr. Skipwith's letter of the 22d of August covers another letter from Mr. Talleyrand, dated the 20th of August, in which he encloses copies of two letters from the minister of marine respecting american seamen who had been imprisoned. When in July last, an embargo was laid on the american merchant vessels in the ports of France, the agents of the marine took out their crews, and threw them into prison ; thus hazarding the loss of the vessels, and injuring the men by confinement, and the bad provisions of their jails. These

seamen were ordered to be released. The other letter from the minister of marine required that no injury should be done to the safety and liberty of the officers and crews of american vessels *found to be in order*, nor to passengers and other citizens of the United States having passports and protections.

The same letter from Mr. Skipwith enclosed the copy of a decree of the Directory passed the 16th of August, for taking off the embargo, laid a month before on american vessels.

The decree itself occupies but two lines : but its preamble is extended, for the purpose of insulting the Government of the United States, when an act of common justice was done to some of their *citizens* ; by insinuating that the Government was “ abandoned to the passions of the British Cabinet.” This, however, is but the repetition of a calumny familiar in french diplomacy, respecting other nations, as well as our own. Barras, President of the Directory, in his valedictory address to Mr. Monroe, declared, that “ France would not abase herself by calculating the consequences of the condescension of the American Government, to the suggestions of her former tyrants :” professing, at the same time, great “ esteem for the american *People*.” Mr. Adet had before charged the American *Government*, with a “ perfidious condescension to the English ;” and, after making his last communications to the Government, he by their immediate publication under his orders, *appealed* from the *Government* to the *People* of the United States. Yet Mr. Talleyrand says, that the French Government has indeed, “ complained of the American Government, but to the *Government itself* ;” meaning to have it understood, though carefully avoiding the expression, that it had complained to the *Government alone*. With the like sophistry, he attempts to evade our well-founded allegations, that the French Government has made reproachful and injurious distinctions between the *Government* and *People* of the United States, endeavouring to separate the latter from the former. He says, “ it is

utterly false, notwithstanding the public and private insinuations which have been made, in private writings and in solemn acts, that the French Government has ever sought to detach the people of the United States from *the constitution they have given themselves.*" Such a charge against the French Government has not, that I know, ever been made by the American Government : but we have accused them, and truly, with endeavours to detach the people of the United States from the government chosen by themselves to administer that constitution : and this the minister does not attempt to deny. The Directory would, perhaps, be contended that the people should retain the forms of "the constitution they have given themselves," and to which they are attached, provided they would elect to administer it, men devoted to France, and ready to obey the intimation of her will. And because the people have not been thus obsequious, but have dared to make a different election, — the French Government has expressed its "terrible" resentment. Mr Barlow has assured us, in the passage already cited from his letter, that for this single act of the people of the United States, in exercising freely their right of election, the Directory passed a decree, "which was meant to be little short of a declaration of war ;" by which it "was determined to *fleece* the people of their property : " certainly in expectation that, by touching their feeling in that "nerve," they would be induced, in order to save their property, to submit implicitly to the Government of France. Failing in this attempt, the French Government made another, in the decree of the 18th of January, 1798, which, though general in its terms, I have shewn to have been levelled directly and chiefly at the commerce of the United States. And this at the time (as I have before remarked) when three envoys extraordinary were waiting, month after month, and most respectfully soliciting to be heard, and to enter on the discussion of all the subjects of difference between the two countries : and among these, on the french depredations on our

commerce. Yet Mr. Talleyrand has the confidence to assert, and to Mr. Gerry too, one of those envoys, that the French Government "never refused, and never will refuse, to enter into discussion upon every proper subject." Does the minister mean that *these depredations* are not "a proper subject of discussion?" Yes, with respect to a vast proportion of them. Yet Mr. Y. his private agent, explicitly told our envoys, that the condemnations of vessels for want of the *rôle d'équipage*, were not to be questioned; "that being a point on which Merlin, while minister of justice, had written a treatise, and on which the Directory were decided."

It is fit here to recollect another, and a peremptory refusal of the French Government, "to enter into discussion" upon the subjects of difference between France and the United States.

General Pinckney, appointed the minister plenipotentiary of the United States to the French Republic, went to Paris, in the autumn of 1796. There was, at first, (as in the case of the envoys in 1797) a shew of receiving him: but soon the scene was changed; and he was not only refused a hearing, and after bearing a thousand indignities, ordered to leave France; but the predecessor of Mr. Talleyrand, Charles de la Croix, in a letter to Mr. Monroe, intended to be communicated to General Pinckney, declared, (being specially charged to do so by the Directory, and Mr. de la Croix repeated the declaration to General Pinckney's secretary) "That it will not acknowledge nor receive another minister plenipotentiary from the United States, until after the redress of the grievances demanded of the American Government, and which the French Republic has a right to expect from it." To this resolution, we have seen the Directory adhere; and we have also seen, in the demands it made to our envoys extraordinary, as the indispensable preliminaries to any negotiation, what it meant by a "redress of grievances," prior to the reception of a minister from America: it consisted in a *douceur* for the pocket of the Directory and ministers—in the purchase at par

of thirty-two millions of Dutch securities, then worth but half that sum—and in loans as immense and indefinite as their depredations on our commerce.

The same letter from the minister de la Croix to Mr. Monroe, affords another proof of the aim and endeavours of the French Government to separate the people from the Government of the United States. In the sentence next following the above quoted passage, Mr. De la Croix says, "I pray you to be persuaded, Citizen Minister, that this determination having become necessary, allows to subsist between the French Republic and the american people the affection founded upon former benefits and reciprocal interests." If I were to allow myself to make any further reflections on the conduct of France towards the United States, it would be to illustrate the truth of Mr. Barlow's assertion, *that the French Government determined to FLEECE us*. If the French Government "listened (as Mr. Talleyrand says it does) to nothing but justice," and really desired a reconciliation, it would have proposed *to fix some measure of satisfaction* for the injuries it said it had received. Or if too proud to propose to us, at least it would have prescribed to itself some limit to reprisals: or, at any rate, it would not have spurned us from its presence, when we respectfully presented ourselves, sought a reconciliation, and offered to make just satisfaction for every injury we had committed. And if (as Mr. Talleyrand asserts) "the French Government has not ceased to offer the exact justice it demands," it would also have permitted us to state our claims. But it would have been so easy to ascertain all the damages we had done; and their amount would have been so small; even if we agreed to pay for all english, spanish, and dutch vessels, brought by french cruizers into our ports, while all those nations were at war with France—a few of which the justice of the Federal Courts, *in vindication of the sovereignty of the United States*, rescued from the hands of the french consuls, agents, and privateersmen; and if to that amount we also added ten times the value

of the miserable corvette, *Le Cassius*, a vessel which had been unlawfully fitted out for war, in the United States, but which has been the burden of every note from Adet's in 1795, to De la Croix's and Talleyrand's in 1796 and 1798, the amount of the whole, it was known, would be so small—the French Government did not choose to have it ascertained: for then the injuries done by the French to the commerce of the United States must also have been examined and adjusted: and when adjusted, payment **must** have been made or stipulated: but in this, the French Government, doubtless, thought “ it would find only a real disadvantage:” the amount of its own demands, deducted from those of America, would hardly seem to have diminished the latter.

Such a mutual adjustment would also have been accompanied with a settlement of all questions and disputes about the construction of treaties, and all other subjects of difference: but in this also the French Government, upon its own system, “ would have found a real disadvantage.” For it would have vastly reduced the field for privateering in the european seas; and in the West Indies it would have been nearly annihilated: for there, for every vessel taken from the enemies of France, her cruizers have probably captured twenty belonging to the United States. But the French Government, by always abstaining from making specific demands of damages,—by refusing to receive our ministers—by at length proposing to negotiate in a mode which it knew to be impracticable,—with the person who had no powers, and who, therefore, constantly refused to negotiate,—and thus wholly avoiding a negotiation, it has kept open the field for complaints of wrongs and injuries, in order, by leaving them undefined, to furnish pretences for unlimited depredations.—In this way “ it determined to *fleece* us:” in this way it gratified its *avarice and revenge*—and it hoped also to satiate its *ambition*. After a long series of insults, and a patient endurance of injuries aggravated in their na-

ture and unexampled in their extent—that government expected our final submission to its will. Our resistance excited its surprize; and as certainly encreased its resentment. With some soothing expressions, is heard the voice of wounded pride—warmly professing its desire of reconciliation, it gives no evidence of its sincerity; but proofs, in abundance, demonstrate, that it is not sincere. From standing erect, and in that commanding attitude, requiring implicit obedience,—cowering it renounces some of its unfounded demands. But I hope we shall remember, “ that the tyger crouches before he leaps upon his prey.”

TIMOTHY PICKERING.

Department of State,
Jan. 18, 1799.

*Corrections de quelques Passages du Rapport de
M. Pickering.*

Department of State, Jan. 24th 1799.

Sir,

Since the printing of my report on french affairs, having noticed an error in the page 376 which led to another in the 377th, I have represented the same to the President of the United States, who has directed me to communicate the same to you, for the information of the senate.

In page 376, line 10, from the bottom—instead of the words in the parenthesis (about the consular convention) should have been inserted the words (about the examination of reciprocal damages.)

In page 377, beginning in the 20th line, after the word *ostensible*, the next sentence should read thus :

In the minister's last-mentioned letter, after saying that his “ second point” (to fix the meaning of the treaties between the two countries) was most important,” as it embraced the source of all the differences,” and that to this they should first attend—he purposely passes by the most interesting questions which

it involves, and sends Mr. Gerry a note on the *consular convention*, of all possible subjects in difference the most insignificant ; &c.

I have the honor to be,

with great respect,

Sir,

your most obedient servant,

TIMOTHY PICKERING,

The Honourable

The President of the Senate
of the United States.

H.

SUPPLÉMENT DE PIÈCES OFFICIELLES, ET AUTRES, RELATIVES AUX RAPPORTS POLITIQUES, QUI ONT SUBSISTÉ ENTRE LA FRANCE ET LES ETATS-UNIS D'AMÉRIQUE, TANT A L'EPOQUE DES NÉGOCIATIONS, QUE DURANT LA RUPTURE ENTRE LES DEUX ETATS.

1.

Décret de la Convention Nationale du 17 Novembre, 1793, au Sujet du Maintien des Traités entre la France et les Cantons Suisses et les Etats-Unis d'Amérique, (v. Journal des Débats, An 2. N. 425.)

La convention nationale voulant manifester aux yeux de tous les peuples les principes qui la dirigent et qui doivent présider aux relations de toutes les sociétés politiques ; voulant en même-temps déconcerter les mouvemens employés par ses ennemis pour alarmer sur ses intentions les alliés de la république, particulièrement les Cantons Suisses et les Etats-Unis d'Amérique, décrète ce qui suit.

I. La convention nationale déclare, au nom du peuple français, que sa résolution constante est d'être terrible envers ses ennemis, généreux envers ses alliés, juste envers tous les peuples.

II. Les traités qui lient la France aux Etats-Unis d'Amérique et aux Cantons Suisses seront loyalement exécutés.

III. Quant aux modifications qui auraient pu être nécessitées par la révolution qui a changé le Gouvernement Français, ou par les mesures générales et extraordinaires que la république est obligée de prendre pour la

défense de son indépendance et de sa liberté, la convention nationale se repose sur la loyauté réciproque et sur l'intérêt commun de la nation française et de ses alliés.

IV. Elle enjoint aux citoyens et à tous les agens civils et militaires de la république, de respecter et faire respecter le territoire des nations alliées ou neutres.

V. Le comité de salut public est chargé de s'occuper des moyens de resserrer de plus en plus les liens de l'alliance et de l'amitié qui unissent la République Française aux Cantons Suisses et aux Etats-Unis d'Amérique.

VI. Dans toutes les discussions sur les objets particuliers de réclamations respectives, il prouvera aux Cantons Suisses et aux Etats-Unis d'Amérique, par tous les moyens compatibles avec les circonstances impérieuses, où se trouve la république, les sentimens d'équité, de bienveillance et d'estime, dont la nation française est animée envers eux.

VII. Le présent décret et le rapport du comité de salut public seront imprimés, traduits dans toutes les langues, et répandus dans toute la république et dans les pays étrangers, pour attester à l'univers les principes de la nation française et les attentats de ses ennemis contre la sûreté générale de tous les peuples.

2.

Lettres de Créance de Mr. Monroe, Ministre Plénipotentiaire des Etats-Unis en France en 1794.

To the Committee of Public Safety of the French Republic.

GEORGE WASHINGTON, *President of the United States of America, to the Representatives of the French People, Members of the Committee of Public Safety of the French Republic, the great and good Friend and Ally of the United States.*

On the intimation of the wish of the French Republic, that a new minister should be sent from the United

States, I resolved to manifest my sense of the readiness with which my request* was fulfilled, by immediately fulfilling the request of your government. It was some time before a character could be obtained, worthy of the high office of expressing the attachment of the United States to the happiness of our allies, and drawing closer the bonds of our friendship. I have now made choice of James Monroe, one of our distinguished citizens, to reside near the French Republic, in the quality of minister plenipotentiary of the United States of America. He is instructed to bear to you our sincere solicitude for your welfare, and to cultivate with zeal the cordiality so happily subsisting between us. From a knowledge of his fidelity, probity, and good conduct, I have entire confidence that he will render himself acceptable to you, and give effect to your desire of preserving and advancing on all occasions, the interest and connexion of the two nations. I beseech you therefore to give full credence of whatever he shall say to you on the part of the United States, and, most of all, when he shall assure you, that your prosperity is an object of our affection; and I pray God to have the French Republic in his holy keeping.

(Signed)

G. WASHINGTON,

By the President of the United States of America.

EDM. RANDOLPH,
Secretary of State.

* Il est, sans doute, question ici de la demande du Président, adressée à la France, concernant le rappel de Mr. Genet.

3.

*Déclaration du Congrès des Etats-Unis du 10 Juin 1794,
adressée au Comité de Salut Public, en Réponse à sa
Lettre au Congrès.*

a.

*Réponse, écrite par le Secrétaire d'Etat des Etats-Unis,
au Nom du Sénat.*

*To the Committee of Public Safety of the French Re-
public.*

Philadelphia, June 10th, 1794.

The undersigned secretary of state of the United States of America, has the honor of communicating to the committee of public safety for the French Republic, that on the 24th day of April 1794, it was ordered by the United States, that the letter of that committee, addressed to Congress, be transmitted to the President, and that he be requested to cause the same to be answered on behalf of the senate, in such manner as shall manifest their sincere friendship and good will for the French Republic.

In executing this duty, which has been allotted by the President to the Department of State, the liberal succours which the United States received from the french nation, in their struggle for independence, present themselves warm to their recollection. On this basis was the friendship between the two nations founded ; on this basis, and the continued interchanges of regard since has it grown : and supported by these motives, it will remain firm and constant.

The senate therefore tender to the committee of public safety their zealous wishes for the French Republic ; they learn with sensibility every success which promotes the happiness of the french nation ; and the full establishment of their peace and liberty will be ever esteemed by the senate as a happiness to the United States and to humanity.

(Signed)

EDM. RANDOLPH,
Secretary of State.

b.

*Réponse, écrite par le Secrétaire d'Etat des Etats-Unis, au
Nom de la Chambre des Représentans.*

To the Committee of Public Safety of the French Republic.

Philadelphia, June 10th, 1794

The undersigned secretary of state for the United States of America, has the honor of representing to the committee of public safety for the French Republic, that on the 25th of April in the present year, it was unanimously resolved by the house of representatives, as follows : “ that the letter of the committee of public safety of the French Republic, addressed to Congress, be transmitted to the President of the United States, and that he be requested to cause the same to be answered on behalf of this house, in terms expressive of their sensibility for the friendly and affectionate manner in which they have addressed the Congress of the United States, with an unequivocal assurance that the representatives of the people of the United States have much interest in the happiness and prosperity of the French Republic.”

The President of the United States has consigned this honourable and grateful function to the department of state. In no manner can it be more properly discharged, than by seizing the occasion of declaring to the ally of the United States, that the cause of liberty, in the defence of which so much american blood and treasures have been lavished, is cherished by our republic with ensreasing enthusiasm ; that under the standard of liberty, wheresoever it shall be displayed, the affection of the United States will always rally ; and that the successes of those who stand forth as her avengers, will be gloried in by the United States, and will be felt as the successes of themselves and the other friends of humanity.

Yes, representatives of our ally, your communication has been addressed to those who share in your fortunes, and who take a deep interest in the happiness and prosperity of the French Republic.

(Signed) EDM. RANDOLPH, Secretary of State.

4.

Arrêté du Directoire Exécutif de la République Française, du 2 Mars, 1797, par lequel il ordonne la Saisie et Confiscation de toutes les Marchandises et Objets appartenans à l'Ennemi qui seraient trouvés sur des Navires Américains; Disposition qui, par voie de représaille, serait exécutée tant que le Traité de 1794, entre la Grande-Bretagne et les Etats-Unis d'Amérique subsisterait dans toute sa Force.

(V. Rédacteur, 1797, No. 447.)

DIRECTOIRE EXÉCUTIF.

Arrêté du 12 Ventôse, An 5. (2 Mars, 1797.)

Le Directoire Exécutif, vu la loi du 9 Mars, 1793, qui, attendu que le pavillon des puissances neutres n'étant pas respecté par les ennemis de la République Française, et tous les droits des gens étant violés à son préjudice, il n'est plus permis au peuple français de remplir, envers ces puissances en général, le vœu qu'il a si souvent manifesté, et qu'il formera constamment pour la pleine et entière liberté du commerce et de la navigation, ordonne entre autres dispositions :

10. Que les bâtimens de guerre et corsaires français peuvent arrêter et amener dans les ports de la république, les navires neutres qui se trouveront chargés, en tout ou en partie, de marchandises appartenantes aux ennemis ;

20. Que les marchandises appartenantes aux ennemis, seront déclarées de bonne prise, et confisquées au profit des preneurs ;

30. Que dans tous les cas, les navires neutres seront relâchés du moment où le déchargement des marchandises saisies aura été effectué ; que le frêt en sera payé au taux qui aura été stipulé par les chargeurs, et qu'une juste indemnité sera accordée à raison de leur détention, par les tribunaux qui doivent connaître de la validité des prises ;

40. Que ces tribunaux seront tenus, en outre, de faire parvenir, trois jours après leur jugement, un double inventaire de ces marchandises au ministre de la marine, et un autre double au ministre des affaires étrangères.

50. Que la présente loi, applicable à toutes les prises qui ont été faites depuis la déclaration de guerre, cessera d'avoir son effet, dès que les puissances ennemies auront déclaré libres et non saisissables, quoique destinées pour les ports de la république, les marchandises chargées sur des navires neutres qui appartiendront au gouvernement ou aux citoyens français ;

Vu pareillement la loi du 27 Juillet, 1793, qui, en maintenant celle du 9 Mai précédent, ci-dessus rappelée, ordonne qu'elle aura sa pleine et entière exécution, et qu'en conséquence, toutes autres dispositions qui pourraient y être contraires, sont et demeurent abrogées ; abrogation qui comprend évidemment la loi du 1er du même mois de Juillet, par laquelle les bâtimens des Etats-Unis de l'Amérique avaient été exceptés de la loi du 9 Mai, conformément à l'article 15 du traité du 6 Février, 1778 ;

Vu aussi l'article 7 de la loi du 13 Nivôse, an 3, qui enjoint à tous les agens de la république, à tous les commandans de la force armée, aux officiers civils et militaires de faire respecter et observer dans toutes leurs dispositions, les traités qui unissent la France aux puissances neutres de l'ancien Continent et aux Etats-Unis de l'Amérique, et ajoute qu'aucune atteinte ne sera portée à ces traités, et que toutes dispositions qui pourraient leur être contraires, sont annulées ;

Considérant que cette dernière loi ne déroge à celle du 9 Mai, 1793, qu'en faveur des puissances neutres, dont les traités actuellement subsistans avec la République Française sont contraires à ces dispositions ; qu'il importe, par conséquent, à l'instruction, tant des commandans de la force armée de la république et des bâtimens commissionnés par elle, que des tribunaux chargés de prononcer sur la validité des prises, de prendre

des mesures pour empêcher, ou qu'on ne suppose existans des traités qui n'ont jamais eu lieu, ou qu'on ne regarde comme étant encore en vigueur des traités conclus pour un temps déterminé qui est expiré, ou comme devant être encore exécutés à la lettre des traités qui ont été modifiés depuis leur conclusion ; qu'à cette dernière espèce appartient singulièrement le traité d'amitié et de commerce conclu le 6 Février, 1778, entre la France et les Etats-Unis d'Amérique, qu'en effet, par l'article 2 de ce traité la France et les Etats-Unis de l'Amérique *s'engagent mutuellement, à n'accorder aucune faveur particulière à d'autres nations, en fait de commerce et de navigation, qui ne devienne aussitôt commune à l'autre partie ; et qu'il est ajouté par le même article, que celle-ci jouira de cette faveur gratuitement, si la concession est gratuite ; ou en accordant la même compensation, si la concession est conditionnelle ;* qu'ainsi les dispositions stipulées en faveur de l'Angleterre, par le traité d'amitié, de commerce, et de navigation, passé à Londres, le 19 Novembre, 1794, entre cette puissance et les Etats Unis de l'Amérique, sont censées l'avoir été en faveur de la République Française elle-même, et par suite, modifient, dans les points qui y sont contraires, le traité conclu le 6 Février, 1778 ; que c'est d'après ces dispositions, que le Gouvernement Français a déclaré, par ses arrêtés des 14 et 28 Messidor, an 4, comme il est encore forcé de le faire aujourd'hui, qu'il usera des justes mesures de réciprocité qu'il était en droit d'exercer à cet égard, en tout ce qui tient aux circonstances de la guerre, ainsi qu'aux intérêts politiques, commerciaux et maritimes de la République Française ; que conséquemment il est nécessaire de fixer, par le rapprochement des traités du 6 Février, 1778, et du 19 Novembre, 1794, toute incertitude sur les cas où doit s'exercer ce droit de réciprocité.

Considérant qu'il s'est élevé, tout récemment, sur la manière de constater la propriété des navires et des marchandises prétendues appartenir aux neutres, des

doutes et des contestations, qui n'auraient jamais eu lieu, si les dispositions des anciens réglemens, relatifs à cette matière, avaient été mieux connues : qu'il importe, par conséquent, de rappeler ces dispositions et de faire exécuter l'art. 5. de la loi du 14 Février, 1793, qui sera maintenue ;

Après avoir entendu les ministres de la justice, de la marine et des colonies.

Arrête ce qui suit :

ART. I. Les commissaires du Directoire Exécutif près les tribunaux civils de département veilleront à ce que dans les contestations sur la validité des prises maritimes, il ne soit rendu aucun jugement fondé sur l'article 7 de la loi du 13 Nivôse, an 3, sans qu'au préalable le ministre de la justice ait été consulté, conformément à l'article 3 de la loi du 8 Floréal, an 4, relativement aux traités en vertu desquels des neutres prétendraient se soustraire, au moyen de la première de ces lois, à l'exécution de celle du 9 Mai, 1793.

II. Le ministre de la justice examinera, en conséquence, si les traités invoqués subsistent encore, ou s'ils ont été modifiés depuis leur conclusion ; il lui sera fourni, à cet effet, par le ministre des relations extérieures, tous les renseignemens dont il aura besoin, et il en référera au Directoire Exécutif, ainsi qu'il est prescrit par la loi du 8 Floréal, an 4.

III. Le Directoire Exécutif rappelle à tous les citoyens français que le traité passé le 6 Février, 1778, entre la France et les Etats-Unis de l'Amérique a été, aux termes de son deuxième article, modifié de plein droit par celui qui a été passé à Londres le 19 Novembre, 1794, entre les Etats-Unis de l'Amérique et l'Angleterre ; en conséquence,

10. D'après l'article 17 du traité de Londres, du 19 Novembre, 1794, transcrit ci-dessous, * toute mar-

(*) Art. 17. " Il est convenu que dans tous les cas où les vaisseaux seront pris ou détenus sur un juste soupçon d'avoir à bord des propriétés appartenantes à l'ennemi, ou de lui porter

chandise ennemie, ou non suffisamment constatée neutre, chargée sous le pavillon américain, sera confisquée, mais le bâtiment à bord duquel elle aura été trouvée sera relâché et rendu au propriétaire. Il est enjoint aux commissaires du Directoire Exécutif de faire accélérer, par tous les moyens qui sont en leur pouvoir, le jugement des contestations qui pourront s'élever, soit sur la validité des prises de cargaison, soit sur les frêts et surestaries ;

20. D'après l'article 18 du traité de Londres, du 19 Novembre, 1794, transcrit ci-dessous, * aux objets déclarés *contrebande* par l'article 24 du traité du 6 Février, 1778, sont ajoutés les objets suivans :

Les bois de construction ;

Les brais, goudrons, et résines ;

Le cuivre en feuilles ;

Les voiles, chanvres, et cordages ;

Et tout ce qui sert directement ou indirectement à l'armement et à l'équipement des vaisseaux ; excepté le

aucun des articles qui, en temps de guerre, passent pour *contrebande*, le dit vaisseau sera amené au port le plus voisin et le plus convenable, et si l'on trouve, en effet, sur son bord aucune propriété appartenante à l'ennemi, cette partie seulement de la cargaison sera confisquée, et le vaisseau sera remis en liberté avec le reste de son chargement, pour continuer sa route sans aucun empêchement. Et il est convenu qu'on prendra toutes les mesures propres à prévenir les retards de décision des cas de navires ou cargaisons ainsi soumis à un jugement, et de paiement ou recouvrement de l'indemnité adjugée, ou que l'on aura consenti à payer aux capitaines ou propriétaires de ces bâtimens."

* Art. 18. " Dans l'intention de régler ce qui, à l'avenir, sera regardé comme *contrebande de guerre*, il est convenu que, sous cette dénomination, seront comprises toutes les armes, &c., comme aussi les bois pour la construction des vaisseaux, la poix ou résine, le cuivre de doublage en feuilles, les voiles, chanvres et cordages, et généralement tout ce qui peut être d'une utilité directe pour l'équipement des vaisseaux, excepté le fer en barres et le sapin débité en planches. Tous les articles ci-dessus mentionnés, sont ici déclarés objets qui pourront être justement confisqués, toutes les fois qu'on essayera de les porter à l'ennemi."

fer brut et le sapin en planches. Ces divers articles seront confisqués toutes les fois qu'ils seront destinés ou qu'on essayera de les porter à l'ennemi.

3. D'après l'article 21 du traité de Londres, du 19 Novembre, 1794, transcrit ci-dessous, * tout individu reconnu Américain, porteur d'une commission donnée par les ennemis de la France, ainsi que tout marin de cette nation, faisant partie des équipages des navires, ou vaisseaux ennemis, sera, par ce seul fait déclaré pirate, et traité comme tel, sans qu'il puisse, dans aucun cas, alléguer qu'il y a été forcé par violence, menaces ou autrement.

IV. Conformément à la loi du 14 Février, 1793, les dispositions des réglemens du 21 Octobre, 1744, et du 26 Juillet, 1778, concernant la manière de constater la propriété des navires et des marchandises neutres, seront exécutées selon leur forme et teneur.

Sera, en conséquence, de bonne prise, tout navire américain qui n'aura pas à bord un rôle d'équipage en bonne forme, tel qu'il est prescrit, par le modèle annexé au traité du 6 Février, 1778, dont l'exécution est ordonnée par les articles 25 et 27 du même traité.

* Art. 21. " Il est également convenu que les sujets et citoyens des deux nations ne feront aucun acte d'hostilité les uns contre les autres, et n'accepteront ni lettres de marque, ni instructions d'aucun prince ou état étranger, de manière à agir en ennemi contre l'une des deux parties. On ne souffrira pas non plus que les ennemis de l'une des deux parties se permettent d'inviter, d'encourager ou enrôler dans leur service militaire aucun des sujets ou citoyens de l'autre partie; et les lois contre de telles offenses et agressions, seront exactement exécutées; et si aucun sujet ou citoyen desdites parties respectives, accepte aucune commission ou lettre de marque d'une puissance étrangère, pour armer un vaisseau, afin d'agir en qualité de corsaire contre l'une de ces parties, et qu'il soit pris par l'autre, il est ici déclaré que la partie qui le prendra, peut légitimement traiter ce sujet ou citoyen ayant de pareilles commission ou lettre de marque, comme un pirate."

V. Il est enjoint aux commissaires du Directoire Exécutif d'appeller la sévérité des tribunaux sur les manœuvres frauduleuses de tout armateur se disant neutre, Américain ou autre, à bord du bâtiment duquel il sera trouvé, ainsi qu'il a déjà été fait plusieurs fois dans la guerre actuelle, soit des papiers de mer en blanc, quoique signés et scellés, soit des papiers en forme de lettres, contenant des signatures de particuliers en blanc, soit des doubles passeports ou lettres de mer qui indiquent différentes destinations au bâtiment, soit des doubles factures, connoissemens ou papiers de mer quelconques, qui assignent à tout ou partie de la même marchandise, des propriétaires différens ou différentes destinations.

VI. Au moyen des dispositions du présent arrêté, celui du 9 Frimaire dernier, concernant les frets et surestaries, est rapporté en ce qui concerne les surestaries seulement.

VII. Le présent arrêté sera inséré au bulletin des lois. Les ministres de la marine et des colonies, de la justice, et des relations extérieures sont chargés de son exécution, chacun en ce qui le concerne.

(Signé) REWBELL, Président.

LAGARDE, Secrétaire-général.

5.

Arrêté du Directoire Exécutif du 10 Avril, 1797, portant que les Passeports délivrés ou visés par des Agens Diplomatiques des Etats-Unis d'Amérique ne seront plus admis, ni reconnus par aucune Autorité en France. (v. Rédacteur, 1797. N. 482.)

ARRETE du 21 Germinal, an 5.

Le Directoire Exécutif arrête que les passeports délivrés par des ministres et envoyés diplomatiques des Etats-Unis d'Amérique, ou visés par eux, ne seront admis ni reconnus par aucune autorité.

Le ministre de la police est chargé de l'exécution du présent arrêté, qui sera imprimé.

(Signé)

REWBELL, Président.

LAGARDE, Secrétaire-général.

6.

Loi des Etats-Unis d'Amérique, du 7 Juillet, 1798, qui déclare, que les Traités conclus avec la France ne sont plus obligatoires pour les Etats-Unis.

(V. Moniteur, N. 346. An VI.)

Considérant que les traités conclus entre les Etats-Unis et la France, ont été mainte fois violés par le Gouvernement Français ; et que les justes réclamations des Etats-Unis, pour la réparation de toutes ces injures ont été repoussées, et que leurs efforts pour négocier à l'amiable une transaction sur toutes ces plaintes entre les deux nations, ont été rejetés avec indignité ;

Considérant que sous l'autorité du Gouvernement Français on poursuit encore un système de violence déprédatrice, infractions aux traités susdits et hostilité aux droits d'une nation libre et indépendante ;

Il a été arrêté par le sénat et la chambre des représentans, assemblés en congrès, que les Etats-Unis sont de droit délivrés et exonérés des stipulations des traités et de la convention consulaire qui avait été conclue entre les Etats-Unis et la France et que lesdits traités ne seront plus regardés comme légalement obligatoires de la part du Gouvernement ou des citoyens des Etats-Unis.

Et ont signé :

JONATHAN DAYTON,

Orateur de la Chambre des Représentans.

THEODORE SEDGWICK,

Président du Sénat par interim.

Et plus bas approuvé, le 7 Juillet, 1798.

JOHN ADAMS.

Président des Etats-Unis

Et déposé au bureau des archives du secrétaire d'état et

Contresigné :

TIMOTHÉE PICKERING.

7.

Lettres de Marque données par le Président des Etats-Unis contre la France en Décembre, 1798.

Lettre de Marque trouvée à Bord du Brick Américain l'Eliza, prise et amenée aux Atterrages de St. Jean de Luz.

(V. Moniteur, N. 140. An VII.)

John Adams, Président des Etats-Unis d'Amérique, à tous ceux qui verront les présentes, salut.

Qu'il soit notoire que, conformément à un acte du Congrès des Etats-Unis, rendu à ce sujet le 9 Juillet 1798, j'ai commissionné, ainsi que je fais par les présentes, le brigantin l'Eliza, armé, du port de 132 tonneaux environ, armateur Guillaume Orne, de Salem, ledit brick monté de 4 canons, et ayant 12 hommes d'équipage; autorisant, par les présentes, Thomas Woodberry jeune, capitaine, et Samuel Peace et Zabalun Woodberry, lieutenant dudit navire, ainsi que les autres officiers et l'équipage d'icelui, à soumettre, saisir et prendre tous bâtimens français armés qui seront trouvés dans les limites et juridiction des Etats-Unis ou en pleine mer, et amener dans quelque port et états amis, tout navire ainsi capturé, avec ses appaux, canons et appartenances; comme aussi les marchandises et effets qui se trouvent à bord, ainsi que les Français ou toute autre personne qui aurait quelque fonction à remplir sur ledit navire, et encore à prendre tous bâtimens, marchandises et effets des citoyens français armés, afin de pouvoir procéder à l'égard desdites prises ou reprises, d'après les formes exigées par la loi, et ainsi qu'il appartiendra au droit et à la justice. Cette commission continuera d'être valable et d'avoir force tout le temps qu'il plaira au président des Etats-Unis.

Donné, sous mon seing et le sceau des Etats-Unis de l'Amérique, le 12 Décembre, l'an de notre Seigneur, 1798, et le 23^{me} de l'indépendance desdits Etats.

JOHN ADAMS, Président.

TIMOTHÉE PICKERING, Secrétaire d'Etat.

8.

Notice d'une Loi du Congrès des Etats-Unis, en Mai, 1800, par laquelle la Prohibition du Commerce entre l'Amérique et la France fut renouvelée pour un An.

(V. les Journaux du Congrès de 1800.)

I.

CONVENTION ENTRE LA FRANCE ET LES
ETATS-UNIS D'AMÉRIQUE, SIGNÉE A PARIS
LE 30 SEPTEMBRE, 1800.

Convention between the French Republic and the United States of America. (d'après la Copie, imprimée en 1801 à Washington, par Ordre du Gouvernement Américain).

By the President of the United States of America,

A PROCLAMATION.

Whereas a convention for terminating certain differences, which had arisen between the United States of America and the French Republic, was concluded and signed by the plenipotentiaries of the two nations, duly and respectively authorised for that purpose, and was duly ratified and confirmed by the President of the United States, with the advice and consent of the senate, which convention so ratified is in the form following :

John Adams, President of the United States of America—To all and singular to whom these presents shall come, greeting.

Whereas a certain convention between the United States of America and the French Republic was con-

cluded and signed between their plenipotentiaries, the honorable Oliver Ellsworth, William Richardson Davie, and William Vans Murray, esquires, their envoys extraordinary and ministers plenipotentiary to the French Republic, and the plenipotentiaries of the French Republic, the citizens Joseph Bonaparte, Charles Pierre Claret Fleurieu, and Pierre Louis Roederer, at Paris, on the 30th day of September last past, which convention, is word for word, as follows to wit :

Convention between the French Republic and the United States of America.

The Premier Consul of the French Republic in the name of the people of France, and the President of the United States of America, equally desirous to terminate the differences which have arisen between the two states, have respectively appointed their plenipotentiaries, and given them full powers to treat upon those differences, and to terminate the same ; that is to say, the Premier Consul of the French Republic, in the name of the people of France, has appointed for the plenipotentiaries of the said republic, the citizens *Joseph Bonaparte*, ex-ambassador at Rome and counsellor of state ; *Charles*

Extrait du Registre des Délibérations du Conseil d'Etat.

Séance du 28 Brumaire, an 10 de la République Française.

Les Consuls de la République arrêtent que le projet de loi présenté par le conseil d'Etat, relatif à la convention conclue entre la République et les Etats-Unis, sera proposé le 5 Frimaire au corps législatif.

Le premier Consul nomme pour le présenter et en soutenir la discussion, le citoyen Roederer, membre du conseil d'état.

Le gouvernement pense que la discussion sur ce projet doit s'ouvrir le 15 du même mois.

Le premier Consul,

Signé, BONAPARTE.

Par le premier consul, le secrétaire d'état.

Signé, HUGUES-B. MARET.

Pour extrait conforme, le secrétaire-général du conseil-d'état.

Signé, J. G. LOCRÉ.

Séance du 28 Brumaire an 10 de la République.

(No. 12.) PROJET DE LOI.

La convention dont la teneur suit, conclue à Paris le 8 Vendémiaire an 9, et dont les ratifications ont été échangées à Paris le 12 Thermidor même année, sera promulguée comme loi de la république.

CONVENTION.

Le premier Consul de la République Française, au nom du peuple français, et le Président des Etats-Unis d'Amérique, également animés du désir de mettre fin aux différends qui sont survenus entre les deux états, ont respectivement nommé leurs plénipotentiaires, et leur ont donné plein pouvoir pour négocier sur ces différends, et les terminer ; c'est-à-dire, le premier consul de la République Française, au nom du peuple français, a nommé pour plénipotentiaires de ladite république les citoyens Joseph Bonaparte, ex-ambassadeur de la Ré-

Pierre Claret Fleurieu, member of the national institute, and of the board of longitude of France, and counsellor of state, president of the section of marine; and *Pierre Louis Roederer*, member of the national institute of France, and counsellor of state, president of the section of the interior: and the President of the United States of America, by and with the advice and consent of the senate of the said states, has appointed for their plenipotentiaries *Oliver Ellsworth*, chief justice of the United States, *William Richardson Davie*, late governor of the state of North Carolina, and *William Vans Murray*, minister resident of the United States at the Hague; who, after having exchanged their full powers, and after full and mature discussion of the respective interests, have agreed on the following articles.

Article I. There shall be a firm, inviolable, and universal peace, and a true and sincere friendship, between their respective countries, cities, towns, and people, without exception of persons or places.

Art. II. The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of 6th February 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November 1788, nor upon the indemnities mutually due or claimed; the parties will negotiate further on these subjects at a convenient time, and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows.

Art. III. The public ships, which have been taken on one part and the other, or which may be taken before the exchange of ratifications, shall be restored.

Art. IV. Property captured, and not yet definitively condemned, or which may be captured before the exchange of ratifications (contraband goods destined to an

publique Française à Rome, et conseiller d'état ; Charles-Pierre Claret-Fleurieu, membre de l'institut national et du bureau des longitudes de France et conseiller d'état, président de la section de la marine ; et Pierre-Louis Roederer, membre de l'institut national de France et conseiller d'état, président de la section de l'intérieur ; et le Président des Etats-Unis d'Amérique, par et avec l'avis et le consentement du Sénat desdits Etats, a nommé pour leurs plénipotentiaires, Olivier Ellsworth, chef de la justice des Etats-Unis ; William Richardson Davie, ci-devant gouverneur de la Caroline septentrionale ; et William Vans-Murray, ministre résident des Etats-Unis à la Haye ;

Lesquels, après avoir fait l'échange de leurs pleins-pouvoirs, longuement et mûrement discuté les intérêts respectifs, sont convenus des articles suivans :

Art. 1er. Il y aura une paix ferme, inviolable et universelle, et une amitié vraie et sincère entre la République Française et les Etats-Unis d'Amérique, ainsi qu'entre leurs pays, territoires, villes et places, et entre leurs citoyens et habitans, sans exception de personnes ni de lieux.

2. Les ministres plénipotentiaires des deux parties ne pouvant, pour le présent, s'accorder relativement au traité d'alliance du 6 Février, 1778, au traité d'amitié et de commerce de la même date, et à la convention en date du 14 Novembre, 1788, non plus que relativement aux indemnités mutuellement dues ou réclamées, les parties négocieront ultérieurement sur ces objets, dans un temps convenable ; et, jusqu'à ce qu'elles se soient accordées sur ces points, lesdits traités et convention n'auront point d'effet, et les relations des deux nations seront réglées ainsi qu'il suit :

3. Les bâtimens d'état qui ont été pris de part et d'autre, ou qui pourraient être pris avant l'échange des ratifications seront rendus.

4. Les propriétés capturées et non encore condamnées définitivement, ou qui pourront être capturées avant l'échange des ratifications, excepté les marchandises de

enemy's port excepted) shall be mutually restored on the following proofs of ownership; viz. the proof on both sides with respect to merchant ships, whether armed or unarmed, shall be a passport in the form following :

“ To all who shall see these presents, greeting :

“ It is hereby made known that leave and permission has been given to master and commander of the ship called of the town of burthen tons, or thereabouts, lying at present in the port, and haven of and bound for and laden with after that his ship has been visited, and before sailing, he shall make oath before the officers who have the jurisdiction of maritime affairs, that the said ship belongs to one or more of the subjects of , the act whereof shall be put at the end of these presents, as likewise that he will keep, and cause to be kept by his crew on board, the marine ordinances and regulations, and enter in the proper office a list signed and witnessed, containing the names and surnames, the places of birth and abode of the crew of his ship, and of all who shall embark on board her ; whom he shall not take on board without the knowledge and permission of the officers of the marine, and in every port or haven where he shall enter with his ship, he shall shew this present leave to the officers and judges of the marine, and shall give a faithful account to them of what passed and was done during his voyage ; and he shall carry the colours, arms and ensigns of the (French Republic or the United States) during his voyage. In witness whereof we have signed these presents, and put the seal of our arms thereunto, and caused the same to be countersigned by at the day of Anno Domini ”

And this passport will be sufficient without any other paper, any ordinance to the contrary notwithstanding : which passport shall not be deemed requisite to have been renewed or recalled, whatever number of voyages the said ship may have made, unless she shall have returned home within the space of a year.—Proof with

contrebande destinées pour un port ennemi, seront réindues mutuellement sur les preuves suivantes de propriété ; savoir,

De part et d'autre, les preuves de propriété relativement aux navires marchands armés ou non armés, seront un passeport de la forme suivante.

“ A tous ceux qui les présentes verront ; soit notoire que faculté et permission a été accordée à .. maître ou commandant du navire appelé . . . , de la ville de .. de la capacité de tonneaux ou environ, se trouvant présentement dans le port et havre de . . . et destiné pour .. chargé de. . . qu'après que son navire a été visité, et avant son départ, il prêtera serment entre les mains des officiers autorisés à cet effet ; que ledit navire appartient à un ou plusieurs sujets de. . . dont l'acte sera mis à la fin des présentes ; de même qu'il gardera et fera garder par son équipage les ordonnances et réglemens maritimes, et remettra une liste signée et confirmée par témoins, contenant les noms et surnoms, les lieux de naissance et la demeure des personnes composant l'équipage de son navire et de tous ceux qui s'y embarqueront, lesquels il ne recevra pas à bord sans la connaissance et permission des officiers autorisés à ce ; et dans chaque port ou havre où il entrera avec son navire, il montrera la présente permission aux officiers à ce autorisés, et leur fera un rapport fidèle de ce qui s'est passé durant son voyage, et il portera les couleurs, armes et enseignes (de la République Française ou des Etats-Unis) durant son dit voyage. En témoins de quoi nous avons signé les présentes, les avons fait contresigner par et y avons fait apposer le sceau de nos armes.

“ Donné le le de l'an de grace ”

Et ce passeport suffira sans autre pièce, nonobstant tout réglemeut contraire. Il ne sera pas exigé que ce passeport ait été renouvelé ou révoqué, quelque nombre de voyages que ledit navire ait pu faire, à moins qu'il ne soit revenu chez lui dans l'espace d'une année.

Par rapport à la cargaison, les preuves seront des cer-

respect to the cargo shall be certificates, containing the several particulars of the cargo, the place whence the ship sailed and whither she is bound, so that the forbidden and contraband goods may be distinguished by the certificates; which certificates shall have been made out by the officers of the place whence the ship set sail, in the accustomed form of the country. And if such passport or certificates, or both shall have been destroyed by accident, or taken away by force, their deficiency may be supplied by such other proofs of ownership, as are admissible by the general usage of nations. Proof with respect to other than merchant ships shall be the commission they bear.

This article shall take effect from the date of the signature of the present convention. And if, from the date of the said signature, any property shall be condemned contrary to the intent of the said convention, before the knowledge of this stipulation shall be obtained; the property so condemned shall without delay be restored or paid for.

Art. V. The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States. But this clause shall not extend to indemnities claimed on account of captures or confiscations.

Art. VI. Commerce between the parties shall be free. The vessels of the two nations and their privateers, as well as their prizes, shall be treated in the respective ports as those of the nation the most favoured; and in general the two parties shall enjoy in the ports of each other, in regard to commerce and navigation, the privileges of the most favoured nation.

Art. VII. The citizens and inhabitants of the United States, shall be at liberty to dispose by testament, donation or otherwise, of their goods moveable and immoveable, holden in the territory of the French Republic in Europe, and the citizens of the French Re-

tificats contenant le détail de la cargaison, du lieu d'où le bâtiment est parti, et de celui où il va, de manière que les marchandises défendues et de contrebande puissent être distinguées par les certificats; lesquels certificats auront été faits par les officiers de l'endroit d'où le navire sera parti, dans la forme usitée dans le pays; et si ces passeports ou certificats, ou les uns et les autres ont été détruits par accident, ou enlevés de force, leur défaut pourra être suppléé par toutes les autres preuves de propriété admissibles d'après l'usage général des nations.

Pour les bâtimens autres que les navires marchands, les preuves seront la commission dont ils sont porteurs. Cet article aura son effet à dater de la signature de la présente convention; et si, à dater de ladite signature, des propriétés sont condamnées contrairement à l'esprit de ladite convention, avant qu'on ait connaissance de cette stipulation, la propriété ainsi condamnée sera sans délai rendue ou payée.

5. Les dettes contractées par l'une des deux nations envers les particuliers de l'autre, ou par des particuliers de l'une envers des particuliers de l'autre, seront acquittées ou le paiement en sera poursuivi comme s'il n'y avait eu aucune mésintelligence entre les deux états; mais cette clause ne s'étendra point aux indemnités réclamées pour des captures ou pour des condamnations.

6. Le commerce entre les deux parties sera libre; les vaisseaux des deux nations et leurs corsaires, ainsi que leurs prises, seront traités, dans les ports respectifs, comme ceux de la nation la plus favorisée; et en général les deux parties jouiront dans les ports l'une de l'autre, par rapport au commerce et à la navigation, des privilèges de la nation la plus favorisée.

7. Les citoyens et habitans des Etats-Unis pourront disposer par testament, donation ou autrement de leurs biens, meubles et immeubles possédés dans le territoire européen de la République Française; et les citoyens de la République Française auront la même faculté à l'égard des biens-meubles et immeubles possédés dans le terri-

public shall have the same liberty with regard to goods ; moveable and immoveable, holden in the territory of the United States ; in favour of such persons as they shall think proper. The citizens (and inhabitants) of either of the two countries, who shall be heirs of goods, moveable or immoveable, in the other, shall be able to succeed *ab intestato*, without being obliged to obtain letters of naturalization, and without having the effect of this provision contested or impeded, under any pretext whatever ; and the said heirs, whether such by particular title, or *ab intestato*, shall be exempt from every duty whatever in both countries. It is agreed that this article shall in no manner derogate from the laws which either state may now have in force, or hereafter may enact, to prevent emigration ; and also that in case the laws of either of the two states should restrain strangers from the exercise of the rights of property with respect to real estate, such real estate may be sold, or otherwise disposed of, to citizens or inhabitants of the country where it may be, and the other nation shall be at liberty to enact similar laws.

Art. VIII. To favour commerce on both sides, it is agreed, that in case a war should break out between the two nations, which God forbid, the term of six months after the declaration of war shall be allowed to the merchants and other citizens and inhabitants respectively, on one side and the other, during which time they shall be at liberty, to withdraw themselves with their effects and moveables, which they shall be at liberty to carry, send away, or sell, as they please, without the least obstruction ; nor shall their effects, much less their persons be seized, during such term of six months ; on the contrary, passports, which shall be valid for a time necessary for their return, shall be given to them, for their vessels, and effects which they shall be willing to send away or carry with them ; and such passports shall be a safe-conduct against all insults and prizes which privateers may attempt against their persons and effects. And if any thing be taken from them, or any injury done to them or their effects, by one of the

toire des Etats-Unis, en faveur de telle personne que bon leur semblera. Les citoyens et habitans d'un des deux états qui seront héritiers des biens-meubles ou immeubles situés dans l'autre, pourront succéder *ab intestat*, sans qu'ils aient besoin de lettres de naturalité, et sans que l'effet de cette stipulation leur puisse être contesté ou empêché sous quelque prétexte que ce soit ; et seront lesdits héritiers, soit à titre particulier, soit *ab intestat*, exempts de tout droit quelconque chez les deux nations. Il est convenu que cet article ne dérogera en aucune manière aux lois qui sont à présent en vigueur chez les deux nations, ou qui pourraient être promulguées à la suite contre l'émigration ; et aussi que dans le cas où les lois de l'un des deux états limiteraient pour les étrangers l'exercice des droits de la propriété sur les immeubles, on pourrait vendre ces immeubles ou en disposer autrement en faveur d'habitans ou de citoyens du pays où ils seraient situés, et il sera libre à l'autre nation d'établir de semblables lois.

8. Pour favoriser de part et d'autre le commerce, il est convenu que si, ce qu'à Dieu ne plaise, la guerre éclatait entre les deux nations, on allotera, de part et d'autre, aux marchands et autres citoyens ou habitans respectifs, six mois après la déclaration de guerre, pendant lequel temps ils auront la faculté de se retirer avec leurs effets et meubles qu'ils pourront emmener, envoyer ou vendre comme ils le voudront, sans le moindre empêchement ; leurs effets, et encore moins leurs personnes, ne pourront point, pendant ce temps de six mois, être saisis ; au contraire, on leur donnera des passeports qui seront valables pour le temps nécessaire à leur retour chez eux ; et ces passeports seront donnés pour eux ainsi que pour leurs bâtimens et effets qu'ils désireront emmener ou renvoyer. Ces passeports serviront de sauf-conduit contre toute insulte et contre toute capture de la part des corsaires, tant contre eux que contre leurs effets ; et si, dans le terme ci-dessus désigné, il leur était fait,

parties, their citizens or inhabitants, within the terms above prescribed, full satisfaction shall be made to them on that account.

Art. IX. Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor monies, which they may have in public funds, or in the public or private banks, shall ever, in any event of war, or of a national difference, be sequestered or confiscated.

Art. X. It shall be free for the two contracting parties to appoint commercial agents for the protection of trade, to reside in France and the United States. Either party may except such place, as may be thought proper, from the residence of those agents. Before any agent shall exercise his functions he shall be accepted in the usual forms by the party to whom he is sent; and when he shall have been accepted and furnished with his exequatur, he shall enjoy the rights and prerogatives of the similar agents of the most favoured nations.

Art. XI. The citizens of the French Republic shall pay in the ports, havens, roads, countries, islands, cities and towns of the United States no other, or greater duties, or imposts, of what nature soever they may be, or by what name soever called, than those which the nations most favoured are, or shall be obliged to pay; and they shall enjoy all the rights, privileges, liberties, immunities, and exemptions in trade, navigation, and commerce, whether in passing from one port in the said states to another, or in going to and from the same from and to any part of the world, which the said nations do or shall enjoy. And the citizens of the United States shall reciprocally enjoy in the territories of the French Republic in Europe, the same privileges and immunities, as well for their property and persons, as for what concerns trade, navigation and commerce.

Art. XII. It shall be lawful for the citizens of either country to sail with their ships and merchandize, (contraband goods always excepted) from any port whatsoever, to any port of the enemy of the other, and to sail and

par l'une des parties, ses citoyens ou ses habitans, quelque tort dans leurs personnes ou dans leurs effets, on leur en donnera satisfaction complète.

9. Les dettes dues par des individus de l'une des deux nations aux individus de l'autre, ne pourront, dans aucun cas de guerre, ou de démêlés nationaux, être séquestrées ou confisquées, non plus que les actions ou fonds qui se trouveraient dans les fonds publics, ou dans des banques publiques ou particulières.

10. Les deux parties contractantes pourront nommer, pour protéger le négoce, des agens commerciaux qui résideront en France et dans les Etats-Unis; chacune des parties pourra excepter telle place qu'elle jugera à propos, des lieux où la résidence de ces agens pourra être fixée. Avant qu'aucun agent puisse exercer ses fonctions, il devra être accepté, dans les formes reçues, par la partie chez la laquelle il est envoyé; et quand il aura été accepté et pourvu de son *exequatur*, il jouira des droits et prérogatives dont jouiront les agens semblables des nations les plus favorisées.

11. Les citoyens de la République Française ne paieront dans les ports, havres, rades, contrées, îles, cités et lieux des Etats-Unis, d'autres ni de plus grands droits, impôts de quelque nature qu'ils puissent être, quelque nom qu'ils puissent avoir, que les nations les plus favorisées sont ou seront tenues de payer, et ils jouiront de tous les droits, libertés, privilèges, immunités et exemptions en fait de négoce, navigation et commerce, soit en passant d'un port desdits Etats à un autre, soit en y allant ou en revenant de quelque partie, ou pour quelque partie du monde que ce soit, dont les nations susdites jouissent ou jouiront.

Et réciproquement les citoyens des Etats-Unis jouiront, dans le territoire de la République française en Europe, des mêmes privilèges, immunités, tant pour leurs biens, et leurs personnes, que pour ce qui concerne le négoce, la navigation et le commerce.

12. Les citoyens des deux nations pourront conduire leurs vaisseaux et marchandises (en exceptant toujours la contrebande) de tout port quelconque, dans un autre port appartenant à l'ennemi de l'autre nation. Ils pourront

trade with their ships and merchandize, with perfect security and liberty, from the countries, ports and places of those who are enemies of both, or of either party, without any opposition or disturbance whotsoever, and to pass not only directly from the places and ports of the enemy afore-mentioned, to neutral ports and places, but also from one place belonging to an enemy, to another place belonging to an enemy, whether they be under the jurisdiction of the same power, or under the several ; unless such ports or places shall be actually blockaded, besieged or invested.

And whereas it frequently happens, that vessels sail for a port or place belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, it is agreed, that every vessel, so circumstanced, may be turned away from such port or place, but she shall not be detained, nor any part of her cargo, if not contraband, be confiscated, unless, after notice of such blockade or investment, she shall again attempt to enter ; but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel of either, that may have entered into such port or place before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo, nor, if found therein after the reduction and surrender of such place, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof.

Art. XIII. In order to regulate what shall be deemed contraband of war, there shall be comprised, under that denomination, gunpowder, salt-petre, petards, match, ball, bombs, grenades, carcasses, pikes, halberds, swords, belts, pistols, holsters, cavalry saddles and furniture, cannon, mortars, their carriages and beds, and generally all kinds of arms, ammunition of war, and instruments fit for the use of troops ; all the above articles, whenever they are destined to the port of an enemy, are hereby declared to be contraband, and just objects of confiscation ; but the vessel in which

naviguer et commercer en toute liberté et sécurité, avec leurs navires et marchandises, dans les pays, ports et places des ennemis des deux parties, ou de l'une ou de l'autre partie, sans obstacles et sans entraves, et non-seulement passer directement des places et ports de l'ennemi sus-mentionnés, dans les ports et places neutres, mais encore de toute place appartenante à un ennemi, dans toute autre place appartenante à un ennemi, qu'elle soit ou ne soit pas soumise à la même juridiction, à moins que ces places ou ports ne soient réellement bloqués, assiégés ou investis.

Et dans le cas, comme il arrive souvent, où les vaisseaux feraient voile pour une place ou port appartenant à un ennemi, ignorant qu'ils sont bloqués, assiégés ou investis, il est convenu que tout navire qui se trouvera dans une pareille circonstance, sera détourné de cette place ou port, sans qu'on puisse le retenir, ni confisquer aucune partie de sa cargaison (à moins qu'elle ne soit de contrebande, ou qu'il ne soit prouvé que ledit navire, après avoir été averti du blocus ou investissement, a voulu rentrer dans ce port); mais il lui sera permis d'aller dans tout autre port ou place qu'il jugera convenable. Aucun navire de l'une ou de l'autre nation, entré dans un port ou place avant qu'ils aient été réellement bloqués, assiégés ou investis par l'autre, ne pourra être empêché de sortir avec sa cargaison ; s'il s'y trouve lorsque ladite place sera rendue, le navire et sa cargaison ne pourront être confisqués, mais seront remis aux propriétaires.

13. Pour régler ce qu'on entendra par contrebande de guerre, seront compris sous cette dénomination, la poudre, le salpêtre, les pétards, mèches, balles, boulets, bombes, grenades, carcasses, piques, hallebardes, épées, ceinturons, pistolets, fourreaux, selles de cavalerie, harnois, canons, mortiers avec leurs affûts, et généralement toutes armes et munitions de guerre et ustensiles à l'usage des troupes. Tous les articles ci-dessus, toutes les fois qu'ils seront destinés pour le port d'un ennemi, sont déclarés de contre-bande, et justement soumis à la confiscation ; mais le bâtiment sur lequel ils étaient chargés, ainsi

they are laden, and the residue of the cargo, shall be considered free, and not in any manner infected by the prohibited goods, whether belonging to the same, or a different owner.

Art. XIV. It is hereby stipulated, that free ships shall give a freedom to goods ; and that every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to citizens of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that although they be enemies to either party, they are not to be taken out of that free ship, unless they are soldiers, and in actual service of the enemy.

Art. XV. On the contrary, it is agreed, that whatever shall be found to be laden by the citizens, of either party, on any ship belonging to the enemies of the other, or their citizens, shall be confiscated without distinction of goods, contraband or not contraband, in the same manner as if it belonged to the enemy, except such goods and merchandizes as were put on board such ship before the declaration of war, or even after such declaration, if so be it were done without knowledge of such declaration ; so that the goods of the citizens of either party, whether they be of the nature of such as are prohibited, or otherwise, which, as is aforesaid, were put on board any ship belonging to an enemy, before the war, or after the declaration of the same, without the knowledge of it, shall no ways be liable to confiscation, but shall well and truly be restored without delay, to the proprietors demanding the same, but so that if the said merchandizes be contraband, it shall not be any ways lawful to carry them afterwards to any ports belonging to the enemy.

The two contracting parties agree, that the term of

que le reste de la cargaison seront regardés comme libres, et ne pourront en aucune manière être viciés par les marchandises de contrebande, soit qu'ils appartiennent à un même ou à différens propriétaires.

14. Il est stipulé par le présent traité que les bâtimens libres assureront également la liberté des marchandises, et qu'on jugera libres toutes les choses qui se trouveront à bord des navires appartenant aux citoyens d'une des parties contractantes, quand même le chargement en partie d'icelui appartiendrait aux ennemis de l'une des deux ; bien entendu néanmoins que la contrebande sera toujours exceptée. Il est également convenu que cette même liberté s'étendra aux personnes qui pourraient se trouver à bord du bâtiment libre, quand même elles seraient ennemies de l'une des deux parties contractantes, et elles ne pourront être enlevées desdits navires libres, à moins qu'elles ne soient militaires, et actuellement au service de l'ennemi.

15. On est convenu au contraire que tout ce qui se trouvera chargé par les citoyens respectifs sur des navires appartenans aux ennemis de l'autre partie, ou à leurs sujets, sera confisqué, sans distinction des marchandises prohibées ou non prohibées, ainsi et de même que si elles appartaient à l'ennemi, à l'exception toutefois des effets et marchandises qui auront été mises à bord desdits navires avant la déclaration de guerre, ou même après ladite déclaration, si au moment du chargement on a pu l'ignorer ; de manière que les marchandises des citoyens des deux parties, soit qu'elles se trouvent du nombre de celles de contrebande ou autrement, lesquelles, comme il vient d'être dit, auront été mises à bord d'un vaisseau appartenant à l'ennemi avant la guerre, ou même après ladite déclaration, lorsqu'on l'ignorait, ne seront en aucune manière sujettes à confiscation, mais seront fidèlement, et de bonne foi, rendues sans délai à leurs propriétaires, qui les réclameront : bien entendu néanmoins qu'il ne soit pas permis de porter dans les ports ennemis les marchandises qui seront de contrebande. Les deux parties contractantes conviennent que le terme de deux

two months being passed after the declaration of war, their respective citizens, from whatever part of the world they come, shall not plead the ignorance, mentioned in this article.

Art. XVI. The merchant ships belonging to the citizens of either of the contracting parties, which shall be bound to a port of the enemy of one of the parties, and concerning whose voyage, and the articles of their cargo, there shall be just grounds of suspicion, shall be obliged to exhibit, as well upon the high seas, as in the ports or roads, not only their passports, but likewise their certificates, shewing that their goods are not of the quality of those which are specified to be contraband in the thirteenth article of the present convention.

Art. XVII. And that captures on light suspicions may be avoided, and injuries thence arising prevented, it is agreed, that when one party shall be engaged in war, and the other party be neuter, the ships of the neutral party shall be furnished with passports similar to that described in the fourth article, that it may appear thereby that the ships really belong to the citizens of the neutral party; they shall be valid for any number of voyages, but shall be renewed every year, that is, if the ship happens to return home in the space of a year. If the ships are laden, they shall be provided not only with the passports above-mentioned, but also with certificates, similar to those described in the same article, so that it may be known whether they carry any contraband goods. No other paper shall be required, any usage or ordnance to the contrary notwithstanding. And if it shall not appear from the said certificates that they are contraband goods on board, the ships shall be permitted to proceed on their voyage. If it shall appear from the certificates, that there are contraband goods on board any such ship, and the commander of the same shall offer to deliver them up, the offer shall be accepted, and the ship shall be at

mois passé, depuis la déclaration de guerre, leurs citoyens respectifs, de quelque partie du monde qu'ils viennent, ne pourront plus alléguer l'ignorance dont il est question dans le présent article.

16. Les navires marchands appartenans à des citoyens de l'une ou de l'autre des deux parties contractantes, lorsqu'ils voudront passer dans le port de l'ennemi de l'une des deux parties, et que leur voyage, ainsi que les effets de leur cargaison, pourront donner de justes soupçons, lesdits navires seront obligés d'exhiber en pleine mer, comme dans les ports ou rades, non seulement leurs passeports, mais encore leurs certificats, prouvant que ces effets ne sont point de la même espèce que ceux de contrebande spécifiés dans l'article treize de la présente convention.

17. Et afin d'éviter des captures sur des soupçons frivoles, et de prévenir les dommages qui en résultent, il est convenu que quand une des deux parties sera en guerre et l'autre neutre, les navires de la partie neutre seront pourvus de passeports semblables à ceux spécifiés dans l'article 4, de manière qu'il puisse par-là apparaître que les navires appartiennent véritablement à la partie neutre. Ces passeports seront valides pour un nombre quelconque de voyages ; mais ils seront renouvelés chaque année, si le navire retourne chez lui dans l'espace d'une année.

Si ces navires sont chargés, ils seront pourvus non seulement des passeports sus-mentionnés, mais aussi de certificats semblables à ceux mentionnés au même article, de manière que l'on puisse connaître s'il y a à bord des marchandises de contrebande. Il ne sera exigé aucune autre pièce, nonobstant tous usages et réglemens contraires ; et s'il n'apparaît pas par ces certificats, qu'il y ait des marchandises de contrebande à bord, les navires seront laissés à leur destination. Si au contraire il apparaît par ces certificats que lesdits navires aient des marchandises de contrebande à bord, et que le commandant offre de les délivrer, l'offre sera acceptée, et le navire sera remis en toute liberté de

liberty to pursue its voyage, unless the quantity of the contraband goods be greater than can conveniently be received on board the ship of war or privateer, in which case the ship may be carried into port for the delivery of the same.

If any ship shall not be furnished with such passport or certificates as are above required for the same, such case may be examined by a proper judge or tribunal, and if it shall appear from other documents or proofs admissible by the usage of nations, that the ship belongs to the citizens of the neutral party, it shall not be confiscated, but shall be released with her cargo (contraband goods excepted) and be permitted to proceed on her voyage.

If the master of a ship, named in the passport, should happen to die or be removed by any other cause, and another put in his place, the ship and cargo shall, nevertheless, be equally secure and the passport remain in full force.

Art. XVIII. If the ships of the citizens of either of the parties shall be met with, either sailing along the coasts, or on the high seas, by any ship of war or privateer of the other; for the avoiding of any disorder, the said ships of war or privateers shall remain out of cannon-shot, and may send their boats on board the merchant ship which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ships shall exhibit his passport concerning the property of the ship, made out according to the form prescribed in the fourth article. And it is expressly agreed, that the neutral party shall, in no case, be required to go on board the examining vessel for the purpose of exhibiting his papers, or for any other examination whatever.

Art. XIX. It is expressly agreed by the contracting parties, that the stipulations above-mentioned, relative to the conduct to be observed on the sea by the cruisers of the belligerent party towards the ships of the neutral party, shall be applied only to ships sailing without convoy; and when the said ships shall be convoyed, it being the intention of the parties to observe all the

poursuivre son voyage ; à moins que la quantité de marchandises de contrebande ne soit trop grande pour pouvoir être prise convenablement à bord du vaisseau de guerre ou corsaire. Dans ce cas, le navire pourra être amené dans le port, pour y délivrer ladite marchandise.

Si un navire est trouvé sans avoir le passeport ou les certificats ci-dessus exigés, l'affaire sera examinée par les juges ou tribunaux compétens, et s'il conste par d'autres documens ou preuves admissibles par l'usage des nations, que le navire appartient à des citoyens de la partie neutre, il ne sera pas condamné, et il sera remis en liberté avec son chargement, la contrebande exceptée, et aura la liberté de poursuivre sa route.

Si le capitaine nommé dans le passe-port du navire venait à mourir ou à être ôté par toute autre cause, et qu'un autre fût nommé à sa place, le navire et sa cargaison n'en seront pas moins en sûreté, et le passeport demeurera dans toute sa force.

18. Si les bâtimens des citoyens de l'une ou l'autre nation sont rencontrés le long des côtes, ou en pleine mer, par quelques vaisseaux de guerre ou corsaires de l'autre, pour prévenir tout désordre, lesdits vaisseaux ou corsaires se tiendront hors de la portée du canon, et enverront leur canot à bord du navire marchand qu'ils auront rencontré; ils n'y pourront entretenir qu'un nombre de deux ou trois hommes, et demander au patron ou capitaine dudit navire exhibition du passeport concernant la propriété dudit navire, fait d'après la formule prescrite dans l'article 4, ainsi que les certificats susmentionnés, relatifs à la cargaison. Il est expressément convenu que le neutre ne pourra être contraint d'aller à bord du vaisseau visitant pour y faire l'exhibition demandée des papiers, ou pour toute autre information quelconque.

19. Il est expressément convenu par les parties contractantes que les stipulations ci-dessus relatives à la conduite qui sera tenue à la mer par les croiseurs de la partie belligérante envers les bâtimens de la partie neutre, ne s'appliqueront qu'aux bâtimens naviguant sans convoi;

regard due to the protection of the flag displayed by public ships, it shall not be lawful to visit them : but the verbal declaration of the commander of the convoy, that the ships he convoys belong to the nation whose flag he carries, and that they have no contraband goods on board, shall be considered by the respective cruisers, as fully sufficient : the two parties reciprocally engaging not to admit under the protection of their convoys, ships which shall carry contraband goods destined to an enemy.

Art. XX. In all cases where vessels shall be captured or detained under pretence of carrying to the enemy contraband goods, the captor shall give a receipt for such of the papers of the vessel as he shall retain, which receipt shall be annexed to a descriptive list of the said papers ; and it shall be unlawful to break up or open the hatches, chests, trunks, casks, bales or vessels, found on board, or remove the smallest part of the goods, unless the lading be brought on shore in presence of the competent officers, and an inventory be made by them of the said goods. Nor shall it be lawful to sell, exchange, or alienate the same in any manner, unless there shall have been lawful process, and the competent judge or judges shall have pronounced against such goods sentence of confiscation, saving always the ship and the other goods which it contains.

Art. XXI. And that proper care may be taken of the vessel and cargo, and embezzlement prevented, it is agreed that it shall not be lawful to remove the master, commander or supercargo of any captured ship from on board thereof, either during the time the ship may be at sea after her capture, or pending the proceedings against her, or her cargo, or any thing relative thereto. And in all cases where a vessel of the citizens of either party shall be captured, or seized, and held for adjudication, her officers, passengers, and crew, shall be hospitably treated. They shall not be imprisoned or deprived of any part of their wearing apparel, nor of the possession and use of their money, not exceeding for

et dans le cas où lesdits bâtimens seraient convoyés, l'intention des parties étant d'observer tous les égards dus à la protection du pavillon arboré sur les vaisseaux publics, on ne pourra point en faire la visite ; mais la déclaration verbale du commandant de l'escorte, que les navires de son convoi appartiennent à la nation dont ils portent le pavillon, et qu'ils n'ont aucune contrebande à bord, sera regardée par les croiseurs respectifs comme pleinement suffisante ; les deux parties s'engageant réciproquement à ne point admettre sous la protection de leur convoi des bâtimens qui porteraient des marchandises prohibées à une destination ennemie.

20. Dans le cas où les bâtimens seront pris ou arrêtés, sous prétexte de porter à l'ennemi quelques articles de contrebande, le capteur donnera un reçu des papiers du bâtiment qu'il retiendra, lequel reçu sera joint à une liste énonciative desdits papiers ; il ne sera point permis de forcer ni d'ouvrir les écoutilles, coffres, caisses, caissons, balles, ou vases trouvés à bord dudit navire, ni d'enlever la moindre chose des effets avant que la cargaison ait été débarquée en présence des officiers compétens, qui feront un inventaire desdits effets ; ils ne pourront en aucune manière être vendus, échangés ou aliénés, à moins qu'après une procédure légale. le juge ou les juges compétens n'aient porté contre lesdits effets sentence de confiscation (en exceptant toujours le navire et les autres objets qu'il contient).

21. Pour que le bâtiment et sa cargaison soient surveillés avec soin, et pour empêcher les dégâts, il est arrêté que le patron, capitaine ou subrécargue du navire *capturé* ne pourront être éloignés du bord, soit pendant que le navire sera en mer, après avoir été pris, soit pendant les procédures qui pourront avoir lieu contre lui, sa cargaison ou quelque chose y relative. Dans le cas où le navire appartenant à des citoyens de l'une ou de l'autre partie serait pris, saisi et retenu pour être jugé, ses officiers, passagers et équipage seront traités avec humanité ; ils ne pourront être emprisonnés ni dépouillés de leurs vêtemens, ni de l'argent à leur usage, qui ne pourra

the captain, supercargo and mate, five hundred dollars each, and for the sailors and passengers one hundred dollars each.

Art. XXII. It is further agreed, that in all cases, the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal of either of the parties shall pronounce judgment against any vessels or goods, or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives on which the same shall have been founded, and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of the said vessel without any delay, he paying the legal fees for the same.

Art. XXIII. And that more abundant care may be taken for the security of the respective citizens of the contracting parties, and to prevent their suffering injuries by the men of war and privateers of either party, all commanders of ships of war and privateers, and all others the said citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them, and if they act to the contrary, they shall be punished, and shall also be bound in their persons and estates, to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause, all commanders of privateers, before they receive their commissions, shall hereafter be obliged to give, before a competent judge, sufficient security, by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said commander, shall be jointly and severally bound in the sum of seven thousand dollars, or thirty-six thousand eight hundred and twenty francs, or if such ships be provided with above one hundred and fifty seamen, or soldiers, in the sum of fourteen thousand dollars, or seventy-three thousand six hundred and forty francs, to satisfy all damages and inju-

excéder pour le capitaine, le subrécargue et le second, cinq cents dollars chacun, et pour les matelots et passagers, cent dollars chacun.

22. Il est de plus convenu que, dans tous les cas, les tribunaux établis pour les causes de prises dans les pays où les prises seront conduites, pourront seuls en prendre connaissance, et quelque jugement que le tribunal de l'une ou de l'autre partie prononce contre quelques navires ou marchandises, ou propriétés réclamées par des citoyens de l'autre partie, la sentence ou décret fera mention des raisons ou motifs qui ont déterminé ce jugement, dont copie authentique, ainsi que de toute la procédure y relative, sera, à leur réquisition, délivrée sans délai au capitaine ou agent dudit navire, moyennant le paiement des frais.

23. Et afin de pourvoir plus efficacement à la sûreté respective des citoyens des deux parties contractantes, et prévenir les torts qu'ils auraient à craindre des vaisseaux de guerre ou corsaires de l'une ou l'autre partie, tous commandans de vaisseaux de guerre et de corsaires, et tous autres citoyens de l'une des deux parties, s'abstiendront de tout dommage envers les citoyens de l'autre, et de toute insulte envers leurs personnes ; s'ils faisaient le contraire, ils seront punis, et tenus à donner, dans leurs personnes et propriétés, satisfaction et réparation, pour les dommages, avec intérêt, de quelque espèce que soient lesdits dommages.

A cet effet, tous capitaines de corsaires, avant de recevoir leurs commissions, s'obligeront, devant un juge compétent, à donner une garantie au moins par deux cautions responsables, lesquelles n'aurent aucun intérêt sur ledit corsaire, et dont chacune, ainsi que le capitaine, s'engagera particulièrement et solidairement, pour la somme de sept mille dollars, ou trente-six mille huit cent vingt francs ; et si lesdits vaisseaux portent plus de cent cinquante matelots ou soldats, pour la somme de quatorze mille dollars, ou soixante-treize mille six cent quarante fr., qui serviront à réparer les torts ou dommages que lesdits corsaires, leurs officiers, équipages

ries, which the said privateer, or her officers, or men, or any of them, may do or commit during their cruise, contrary to the tenour of this convention, or to the laws and instructions for regulating their conduct; and further, that in all cases of aggressions, the said commission shall be revoked and annulled.

Art. XXIV. When the ships of war of the two contracting parties, or those belonging to their citizens, which are armed in war, shall be admitted to enter with their prizes the ports of either of the two parties, the said public or private ships, as well as their prizes, shall not be obliged to pay any duty either to the officers of the place, the judges, or any others; nor shall such prizes, when they come to and enter the ports of either party, be arrested or seized, nor shall the officers of the place make examination concerning the lawfulness of such prizes; but they may hoist sail at any time and depart and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to shew. It is always understood that the stipulations of this article shall not extend beyond the privileges of the most favoured nation.

Art. XXV. It shall not be lawful for any foreign privateers who have commissions from any prince or state in enmity with either nation, to fit their ships in the ports of either nation, to sell their prizes, or in any manner to exchange them; neither shall they be allowed to purchase provisions, except such as shall be necessary for their going to the next port of that prince or state, from which they have received their commissions.

Art. XXVI. It is further agreed, that both the said contracting parties shall not only refuse to receive any pirates into any of their ports, havens, or towns, or permit any of their inhabitants to receive, protect, harbour, conceal, or assist them in any manner, but will bring to condign punishment all such inhabitants as shall be guilty of such acts or offences.

And all their ships, with the goods or merchandizes taken by them and brought into the port of either of the

ou quelqu'un d'eux auraient faits ou commis, pendant leur croisière, de contraire aux dispositions de la présente convention, ou aux lois et instructions qui devront être la règle de leur conduite ; en outre lesdites commissions seront révoquées et annulées dans tous les cas où il y aura eu agression.

24. Lorsque les vaisseaux de guerre des deux parties contractantes, ou ceux que leurs citoyens auraient armés en guerre, seront admis à relâcher, avec leurs prises, dans les ports de l'une des deux parties, lesdits vaisseaux, publics ou particuliers, de même que leurs prises, ne seront obligés à payer aucun droit, soit aux officiers du lieu, soit aux juges ou à tous autres ; lesdites prises entrant dans les havres ou ports de l'une des deux parties, ne pourront être arrêtées ou saisie, et les officiers des lieux ne pourront prendre connaissance de la validité desdites prises, lesquelles pourront sortir, et être conduites en toute franchise et liberté aux lieux portés par les commissions dont les capitaines desdits vaisseaux seront obligés de faire apparoir. Il est toujours entendu que les stipulations de cet article ne s'étendront pas au-delà des privilèges des nations les plus favorisées.

25. Tous corsaires étrangers ayant des commissions d'un état ou prince en guerre avec l'une ou l'autre nation, ne pourront armer leurs vaisseaux dans les ports de l'une ou l'autre nation, non plus qu'y vendre leurs prises, ni les échanger en aucune manière ; il ne leur sera permis d'acheter des provisions que la quantité nécessaire pour gagner le port le plus voisin de l'état ou prince duquel ils ont reçu leurs commissions.

26. Il est de plus convenu qu'aucune des deux parties contractantes, non seulement ne recevra point de pirates dans ses ports, rades ou villes, et ne permettra pas qu'aucun de ses habitans les reçoive, protège, accueille ou recèle en aucune manière ; mais encore livrera à un juste châtimement ceux de ses habitans qui seraient coupables de pareils faits ou délits. Les vaisseaux de ces pirates, ainsi que les effets et marchandises par eux pris et amenés dans les ports de l'une ou l'autre nation, se-

said parties, shall be seized as far as they can be discovered, and shall be restored to the owners or their factors, or agents duly authorized by them; (proper evidence being first given before competent judges for proving the property) even in case such effects should have passed into other hands by sale, if it be proved that the buyers knew or had good reason to believe, or suspect that they had been piratically taken.

Art. XXVII. Neither party will intermeddle in the fisheries of the other on its coasts, nor disturb the other in the exercise of the rights which it now holds or may acquire on the coast of Newfoundland, in the Gulph of St. Lawrence, or elsewhere, on the american coast, northward of the United States. But the whale and seal fisheries shall be free to both in every quarter of the world.

This convention shall be ratified on both sides in due form, and the ratifications exchanged in the space of six months, or sooner if possible.

In faith whereof the respective plenipotentiaries have signed the above articles both in the french and english languages: and they have thereto affixed their seals; declaring, nevertheless, that the signing in the two languages, shall not be brought into precedent, nor in any way operate to the prejudice of either party.

Done at Paris the eighth day of Vendémiaire of the ninth year of the French Republic, the thirtieth day of September, Anno Domini, Eighteen Hundred.

(Signed)

(L. S.)	<i>J. Bonaparte.</i>	(L. S.)	<i>O. Ellsworth.</i>
(L. S.)	<i>C. P. Fleurieu.</i>	(L. S.)	<i>W. R. Davie.</i>
(L. S.)	<i>Roederer.</i>	(L. S.)	<i>W. V. Murray.</i>

ront saisis par-tout où ils seront découverts, et restitués à leurs propriétaires, agens ou facteurs dument autorisés par eux, après toutefois qu'ils auront prouvé devant les juges compétens le droit de propriété.

Que si lesdits effets avaient passé par vente en d'autres mains, et que les acquéreurs fussent ou pussent être instruits, ou soupçonnaient que lesdites effets avaient été enlevés par des pirates, ils seront également restitués.

27. Aucune des deux nations ne viendra participer aux pêcheries de l'autre sur ses côtes, ni la troubler dans l'exercice des droits qu'elle a maintenant, ou pourrait acquérir sur les côtes de Terre-Neuve, dans le golphe de Saint-Laurent, ou par tout ailleurs sur les côtes d'Amérique, au nord des Etats-Unis ; mais la pêche de la baleine et du veau marin sera libre pour les deux nations dans toutes les parties du monde. Cette convention sera ratifiée de part et d'autre en bonne et due forme, et les ratifications seront échangées dans l'espace de six mois, ou plutôt, s'il est possible.

En foi de quoi les plénipotentiaires respectifs ont signé les articles ci-dessus, tant en langue française qu'en langue anglaise, et ils y ont apposé leur sceau ; déclarant néanmoins que la signature en deux langues ne sera point citée comme exemple, et ne préjudiciera à aucune des deux parties.

Fait à Paris le huitième jour de Vendémiaire de l'an 9 de la République française, et le trentième jour de Septembre mil huit cent.

(Signé) Joseph Bonaparte, C.P.Cl. Fleurieu, Roederer, Oliv. Ellsworth, W. R. Davie, W. V. Murray.

Approuvé, le premier Consul,

Signé, BONAPARTE.

Par le premier consul, le secrétaire d'état.

Signé, Hugues-B. MARET.

Pour extrait conforme, le secrétaire-général du conseil-d'état.

Signé, J. G. LOCRÉ.

And Whereas the Senate of the United States did by their resolution, on the 3d day of this present month of February, two-thirds of the senators then present concurring, consent to and advise the ratification of the said convention: Provided the second article be expunged, and that the following article be added or inserted: "It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications."

Now, therefore, I, JOHN ADAMS, President of the United States of America, having seen and considered the convention and additional article above recited, do, in pursuance of the aforesaid advice and consent of the senate of the said United States, by these presents accept, ratify and confirm the said convention, and additional article and every clause and article thereof as the same are herein-before set forth, saving and excepting the second article of the said convention, which I hereby declare to be expunged and of no force or validity; and I do moreover hereby declare, that the said convention, saving the second article as aforesaid, and the said additional article form together one instrument, and are a convention between the United States of America, and the French Republic, made by the President of the United States, by and with the advice and consent of the senate thereof.

In testimony whereof I have caused the seal of the United States of America to be hereto affixed.

(L. S.)

Given under my hand at the city of Washington, this 18th day of February, in the year of our Lord one thousand eight hundred and one, and of the independence of the said states the twenty-fifth.

(Signed)

JOHN ADAMS.

By the President,

JOHN MARSHALL.

Acting as Secretary of State.

MOTIFS.

Citoyens Législateurs,

Le traité que j'ai l'honneur de présenter au corps législatif, a fait cesser entre la France et l'Amérique la mésintelligence dont l'éloignement des lieux, non plus que des souvenirs chers aux deux nations, n'ont pu les préserver pendant la révolution.

Ce traité est le premier de ceux qui ont signalé l'an 9 par la paix du monde : c'est par ses stipulations franches et libérales, que le gouvernement a fait pressentir à l'Europe ses vues pacifiques, sa modération ; c'est le premier rayon qui a brillé dans la tempête comme pour éclairer les dernières victoires de la France, les rendre plus chères au vainqueur, et en adoucir l'aspect aux vaincus.

Pendant la guerre que les Etats-Unis eurent à soutenir pour leur indépendance, la France s'était unie avec eux par des services signalés et par deux traités : l'un d'alliance, l'autre d'amitié et de commerce.

Par le premier, la France avait garanti aux Etats-Unis leur *liberté*, leur *souveraineté*, leur *indépendance* ; elle s'était engagée à ne déposer les armes qu'elle avait prises pour seconder leurs efforts, que quand l'Angleterre aurait reconnu leur indépendance par un traité ; enfin elle avait renoncé à tout dédommagement pour cette protection.

Pour reconnaître de tels engagements et de tels services, les Etats-Unis avaient garanti à la France ses colonies ; ils avaient ouvert leurs ports aux vaisseaux armés et aux corsaires français accompagnés de leurs prises ; ils avaient permis aux corsaires français d'armer dans ces mêmes ports et d'y vendre leurs prises ; enfin ils en avaient interdit l'entrée aux corsaires et aux vaisseaux armés des nations en guerre avec la France, et qui auraient fait des prises sur elle.

En 1792, lorsque la guerre s'alluma entre la France et l'Angleterre, les Etats-Unis se trouvèrent froissés entre leurs engagements envers l'une et la puissance de l'autre. Des difficultés s'élevèrent sur l'interprétation des traités ; les discussions s'envenimèrent par des défiances que l'éloignement et la difficulté des communications ne per-

And whereas the said convention was on the other part ratified and confirmed by the First Consul of France in the form of which the following is a translation from the French language, to wit :

Bonaparte, First Consul, in the name of the french people. The consuls of the Republic having seen and examined the convention concluded, agreed to, and signed at Paris, the 3d Vendémiaire, 9th year of the French Republic, (30th September 1800) by the citizens Joseph Bonaparte, Fleurieu and Roederer, counsellors of state, in virtue of the full powers which have been given to them to this effect, with Messieurs Ellsworth, Davie, and Murray, ministers plenipotentiary of the United States, equally furnished with full powers, the tenour of which convention follows : [Here follows a copy of the convention in the French language.]

Approves the above convention in all and each of the articles which are therein contained ; declares that it is accepted, ratified and confirmed, and promises that it shall be inviolably observed.

The government of the United States having added in its ratification, that the convention should be in force for the space of eight years, and having omitted the second article, the government of the French Republic consents to accept, ratify and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article : provided that by this retrenchment the two states renounce the respective pretensions, which are the object of the said article.

In faith whereof these presents are given. Signed, countersigned, and sealed with the great seal of the Republic, at Paris, the twelfth Thermidor, ninth year of the Republic (31 July 1801).

(Signed)

BONAPARTE.

The Minister of Exterior Relations.

(Signed)

CH. MAU. TALLEYRAND.

By the First Consul.

The Secretary of State,

(Signed)

HUGUES B. MARET.

mirent pas de dissiper. Un traité d'amitié et de commerce conclu dans ces circonstances entre les Etats-Unis et l'Angleterre, fut regardé en France comme un témoignage de partialité en faveur de son ennemi. Les agens commerciaux de la République montrèrent et excitèrent quelque irritation ; le commerce des Etats-Unis fut inquiété par les corsaires français ; plusieurs prises se succédèrent à son préjudice : alors le congrès américain se crut en droit de déclarer les Etats-Unis *exonérés des traités qui les unissaient à la France* ; ils interrompirent leurs relations avec elle ; ils donnèrent des lettres de marque contre ses vaisseaux armés dans les colonies ; et bientôt des rixes élevées en mer entre des bâtimens des deux nations, annoncèrent qu'il fallait hâter leur réconciliation, si l'on voulait éviter qu'elle ne devînt très-difficile.

Tel était l'état des choses, lorsque trois négociateurs américains se rendirent à Paris, amenés par le désir et l'espérance de prévenir une rupture éclatante.

Le commerce américain prétendait avoir essuyé des pertes considérables, les négociateurs en demandèrent l'indemnité.

Le Gouvernement Français avait aussi à prétendre des dédommagemens pour son commerce, qui depuis quelque temps avait souffert ; il reconnut qu'il était juste de liquider, compenser et solder, s'il y avait lieu, les indemnités qui pourraient être respectivement dues ; mais il mit pour condition à toute stipulation sur ce sujet, que les traités passés entre la France et les Etats-Unis seraient préalablement reconnus, estimant que des indemnités ne pouvaient être qu'une reconnaissance d'amitié non interrompue entre les deux Etats, un désaveu de toutes les violences qui avaient pu résulter d'une simple mésintelligence, une sorte de protestation contre tout ce qui aurait pu annoncer une intention hostile ; une nouvelle assurance de fidélité aux anciennes conventions ; en un mot estimant que des indemnités ne pouvaient être que l'exécution des anciens traités, et non le préliminaire d'un nouveau, puisqu'avouer leur annéantissement, ç'aurait été avouer la guerre et imposer à celle des deux nations qui aurait à payer à l'autre une balance pour indemnités, la honteuse obligation d'acheter la paix.

Which ratifications were duly exchanged at Paris on the 31st day of July in the present year, and having been so exchanged, were again submitted to the senate of the United States, who on the 19th day of the present month resolved that they considered the said convention as fully ratified, and returned the same to the President for the usual promulgation. Now therefore to the end that the said convention may be observed and performed with good faith on the part of the United States, I have caused the premises to be made public, and I do hereby enjoin and require all persons bearing office, civil or military, within the United States, and, all others, citizens or inhabitants thereof, or being within the same, faithfully to observe and fulfil the said convention, and every clause and article thereof.

In testimony whereof I have caused the seal of the United States to be affixed to these presents, and signed the same with my hand.

(L. S.)

Done at the city of Washington, the twenty-first day of December, in the year of our Lord one thousand eight hundred and one, and of the sovereignty and independence of the United States the twenty-sixth.

TH. JEFFERSON.

By the President,

JAMES MADISON,
Secretary of State.

Les négociateurs américains se crurent liés par l'acte du Congrès qui avait déclaré les traités nuls, et se jugèrent dans l'impossibilité de les reconnaître. Il fallut en conséquence ajourner les prétentions respectives, et régler par des stipulations nouvelles les relations d'amitié et de commerce qu'il s'agissait de rétablir. Tel a été l'objet de la convention conclue à Paris le 8 Vendémiaire an 9, qui est en ce moment présentée au corps législatif.

Les bases de ce traité sont l'égalité la plus parfaite entre les deux nations, une exacte réciprocité dans tous les cas qui en ont été susceptibles, une grande libéralité de principes, et l'assurance réciproque de se traiter l'une et l'autre dans toute espèce de relation, sur le pied de la nation la plus favorisée. Tels devaient être les caractères d'un traité passé entre deux nations fières de leur liberté.

Les cas de guerre entre un des deux états et une puissance étrangère ont été prévus et réglés de la manière qui a paru la plus propre à prévenir toute équivoque, toute surprise et toute vexation à l'égard de celui qui resterait neutre.

La forme des passeports des bâtimens, le mode de leur exhibition, la manière de prononcer sur les prises respectives, les principes d'après lesquels on devra les juger ; tout a été spécifié de la manière la plus précise et en même-temps la plus favorable à la liberté des deux nations.

Dans le cas où, contre toute attente, la guerre éclaterait entre la France et les Etats-Unis, les citoyens d'une des deux nations établis chez l'autre auraient un délai pour se retirer et mettre leurs effets en sûreté.

Le corps législatif trouvera sans doute digne de remarque l'article du traité où se trouve consacré le principe que la neutralité du bâtiment opère celle de la marchandise dont il est chargé ; et en se rappelant l'époque où ce traité devint public en France, il reconnaîtra peut-être que ce principe éminemment libéral n'a pas peu contribué à rappeler dans le Nord la haute politique qui guida Catherine la Grande lorsqu'elle mit le pavillon de chaque puissance neutre sous la protection de tous les

autres ; et à y faire tenter de nouveaux efforts pour fonder un grand et solide système de neutralité maritime. Tout le monde sait, au reste, combien il servit à ramener vers le Gouvernement Français l'opinion des puissances de l'Europe qui affectaient le plus de doutes sur sa modération.

Au reste telle fut la confiance des deux nations dans la formation du traité ; tel fut leur empressement pour une prompte réconciliation, que la première stipulation convenue entre les négociateurs fut la cessation de toute hostilité dès la signature même de la convention, et sans attendre qu'elle fût ratifiée de part et d'autre. Cet article a été fidèlement exécuté des deux parts.

La réserve d'ouvrir des négociations ultérieures relativement aux traités et aux indemnités a été consignée dans l'article second dont elle a été l'unique objet. Mais la crainte de réveiller des discussions vives, et de voir altérer la bonne harmonie qui doit être l'heureux résultat des autres stipulations, a fait supprimer cet article 2 dans les actes de ratification. Cette suppression est une renonciation prudente et amicale aux prétentions respectives qui étaient énoncées dans l'article.

La France a dû faire sans regret le sacrifice des privilèges que le besoin encore pressant de ses secours, la crainte de l'Angleterre, la reconnaissance enfin lui avaient fait concéder par les Etats-Unis pendant la guerre de leur indépendance.

L'expérience a fait voir, et la raison montre assez que l'exercice rigoureux de ces privilèges serait très-difficile à concilier avec l'indépendance des Etats-Unis, principalement dans les cas où la France aurait à soutenir une guerre contre une puissance forte par sa marine.

Il a dû suffire au gouvernement que la nation française fût assurée de ne voir jamais une autre plus favorisée qu'elle dans ses relations avec les Etats-Unis. D'ailleurs il a espéré de la sécurité des Américains plus d'avantage qu'il n'en pourrait retirer de l'accomplissement de leurs anciens engagemens. Il a cru qu'il convenait à l'intérêt de la nation française, comme à sa grandeur, de réduire toutes leurs obligations envers la France, à l'obligation

de prospérer, à celle de concourir à la liberté des mers, d'entrer avec honneur en partage du négoce du monde, d'offrir à nos colonies des voisins bienveillans, et à l'Europe un exemple des vertus qui sont l'heureux fruit d'une sage liberté.

Tel est, citoyens législateurs, l'esprit général du traité. Tout en promet la stabilité. Les deux nations sont séparées par de trop grandes distances pour être jamais rivales ; les Etats-Unis sont trop voisins de nos colonies pour qu'il ne nous soit pas utile de les avoir pour amis. La position de leur pays, la fécondité de son territoire, ses immenses forêts dont l'agriculture ne demande qu'à livrer une partie à l'industrie maritime déjà prête à les lancer sur les mers ; un sentiment de force entretenu dans toutes les âmes par celui d'une prospérité hâtive et toujours croissante ; un besoin de prospérité très-énergique et échauffé par l'accroissement continu de la force ; enfin la sobriété, l'économie, la simplicité des mœurs, toutes ces circonstances qui semblent appeler les Américains aux belles destinées des peuples à-la-fois agricoles et navigateurs, leur donnent un puissant intérêt à la liberté des mers, à l'équilibre des puissances de l'Europe, à la prospérité de la République Française.

Et combien d'autres causes tendent d'ailleurs à unir par l'affection ces peuples si étroitement unis par l'intérêt !

La France pourra-t-elle jamais s'applaudir de l'égalité qui a fait succéder l'émulation de tous au privilège de quelques-uns, de la liberté qui lui a donné des loix de son aveu, et des magistrats dont elle s'enorgueillit, sans jeter ses regards avec complaisance sur la patrie et sur les successeurs des Guillaume Penn, des Francklin, des Washington ?

La France pourra-t-elle s'applaudir de la régénération de ses mœurs, sans rendre hommage à celle d'un peuple agriculteur et neuf, chez qui elles n'ont pas encore éprouvé l'atteinte de la corruption ?

Pourra-t-elle jouir dans son sein de la liberté de tous les cultes, sans se plaire à considérer ces Etats-Unis où nul n'est sans religion, mais où chacun suit celle qu'il préfère ?

Et, d'un autre côté, comment les bienfaits que l'Amérique tient de la liberté s'y reproduiront-ils à la pensée de ses habitans, sans leur rappeler la France qui la leur donna avant d'en jouir, et qui, après se l'être donnée ensuite à elle-même, seule et sans secours, malgré le monde entier, a fini par la lui rendre respectable et chère ?

Du 5 Frimaire.

Le corps législatif arrête que le projet de loi concernant la convention conclue entre la république et les Etats-Unis d'Amérique, présenté aujourd'hui au corps législatif par les orateurs du gouvernement, ainsi qu'une expédition de l'acte du conseil d'état, relatif à la présentation de ce projet de loi et de l'exposition des motifs, seront transmis au tribunalat par un message.

Extrait du Registre des Délibérations du Conseil d'Etat.

Séance du 11 Frimaire, an 10 de la République Française.

Bonaparte, Premier Consul de la république, nomme le citoyen Rœderer, conseiller d'Etat, pour se rendre aujourd'hui, 11 Frimaire, au corps législatif, et y porter la parole au nom du Gouvernement.

Signé, BONAPARTE.

Par le premier consul, le secrétaire d'Etat.

Signé, HUGUES-B. MARET.

Pour copie conforme, le secrétaire-général du Conseil-d'Etat.

Signé, J. G. LOCRÉ.

(No. 18.) PROJET DE LOI.

Ratifications apposées par le Gouvernement Français, et par celui des Etats-Unis, sur la Convention conclue le 8 Vendémiaire, an 9.

TRADUCTION.

John Adams, Président des Etats-Unis d'Amérique, à tous et chacun qui liront ces présentes, Salut :

Convention entre les Etats-Unis d'Amérique et la République Française, ayant été conclue et signée entre

leurs plénipotentiaires les honorables Olivier Ellsworth, William Richardson Davie, et William-Vans-Murray, écuyers, envoyés extraordinaires, et ministres plénipotentiaires des Etats-Unis près la République Française, et les plénipotentiaires de la République Française, les citoyens Joseph Bonaparte, Charles - Pierre - Claret Fleurieu, et Pierre-Louis Rœderer ; à Paris le trente Septembre dernier, de laquelle convention la teneur suit :

Le Sénat des Etats-Unis d'Amérique ayant par sa résolution du trois du présent mois de Février, et avec le concours des deux tiers des sénateurs alors présens, consenti et délibéré la ratification de ladite convention, pourvu que le second article soit retranché, et que l'article suivant soit ajouté et inséré : " Il est convenu que la présente convention sera en vigueur pendant l'espace de huit années, à dater de l'échange des ratifications." En conséquence, moi, John Adams, Président des Etats-Unis d'Amérique, ayant vu et examiné la convention et l'article additionnel ci-dessus mentionné ; et conformément audit avis et consentement desdits Etats-Unis, j'accepte, ratifie et confirme, par ces présentes, ladite convention et l'article additionnel, et chaque clause, article, tels qu'ils se trouvent insérés ci-dessus, réservant et exceptant le second article de ladite convention, lequel je déclare en être retranché et demeurer sans validité et sans force ; et je déclare en outre que ladite convention (en exceptant le second article précité) et ledit article additionnel, forment ensemble un même acte et deviennent une convention entre les Etats-Unis d'Amérique et la République Française, convention faite par le Président des Etats-Unis, par et avec l'avis et le consentement du Sénat.

En témoignage de quoi, j'ai fait apposer ici le sceau des Etats-Unis d'Amérique. Donné par moi dans la cité de Washington, ce 18 Février, l'année de Notre-Seigneur, 1801, et de l'indépendance desdits Etats la vingt-cinquième

Signé, JOHN ADAMS.

Par le Président :

Signé, MARSHALL, faisant les fonctions de secrétaire d'Etat.

Bonaparte, Premier Consul, au nom du peuple français. Les consuls de la République ayant vu et examiné la convention conclue, arrêtée et signée à Paris, le huit Vendémiaire an neuf de la République Française, (trente Septembre, mil huit cent,) par les citoyens Joseph Bonaparte, Fleurieu et Rœderer, conseillers d'Etat, en vertu des pleins-pouvoirs qui leur avaient été conférés à cet effet, avec Messieurs Ellsworth, Davie et Murray, ministres plénipotentiaires des Etats-Unis, également munis de pleins-pouvoirs, desquels pleins-pouvoirs, et convention la teneur suit :

Approuve la convention ci-dessus en tous et chacun des articles qui y sont contenus ; déclare qu'elle est acceptée, ratifiée et confirmée, et promet qu'elle sera inviolablement observée.

Le Gouvernement des Etats-Unis ayant ajouté dans sa ratification, que le convention sera en vigueur pendant l'espace de huit années, et ayant omis l'article second, le Gouvernement de la République Française consent à accepter, ratifier et confirmer la convention ci-dessus, avec l'addition portant que la convention sera en vigueur pendant l'espace de huit années, et avec le retranchement de l'article second ; bien entendu que, par ce retranchement, les deux Etats renoncent aux prétentions respectives qui sont l'objet dudit article.

En foi de quoi sont données les présentes, signées, contre-signées et scellées du grand sceau de la République.

A Paris, le douze Thermidor, an neuf de la République (trente-un Juillet, mil huit cent un.)

Signé BONAPARTE.

Par le Premier Consul, le secrétaire d'Etat,

Signé, HUGUES-BERNARD MARET.

Pour copie conforme, le secrétaire-général du Conseil d'Etat.

Signé, J. G. LOCRÉ.

Citoyens Législateurs,

J'ai l'honneur de vous présenter, au nom du Gouvernement, les ratifications apposées par le Gouvernement Français, et par celui des États-Unis, à la convention conclue le 8 Vendémiaire, an 9. Vous avez déjà entendu dans les motifs qui ont accompagné la convention elle-même, qu'elle avait subi une modification par les ratifications réciproques, et vous avez entendu les motifs et le résultat de la suppression de l'article 2.

Vous savez, citoyens législateurs, qu'il est contre l'usage et contre les principes reçus dans la diplomatie, d'apposer des modifications aux traités par les actes qui les ratifient. Les modifications remettent en question ce qui est convenu, ou traduisent en convention ce qui est encore en question ; elles sont au moins une initiative qu'une des parties contractantes prend sur l'autre pour changer la convention faite, soit en y retranchant, soit en y ajoutant. Les bienséances ont donc écarté les ratifications modifiées de la diplomatie européenne ; et c'est par cette raison, c'est parce qu'elles sont, pour l'ordinaire, pures et simples, entre les différentes nations de l'Europe, qu'elles ne doivent jamais être envoyées au corps législatif. Ne changeant rien au traité, elles seraient exubérantes pour son examen et pour la sanction législative.

Et c'est aussi par suite de cet usage que l'envoi de celles-ci n'avait pas été fait avec le traité du 8 Vendémiaire, an 9.

Le Gouvernement a adopté les modifications apposées par le Sénat, parce qu'elles n'apportaient aucun préjudice à la France, ainsi que je l'ai déjà exposé ; parce qu'au contraire elles affermissaient la paix et la bonne harmonie entre les deux nations ; parce que la distance qui sépare les deux États aurait exigé un long délai pour le redressement d'une formalité à laquelle le fond de la chose ne donnait pas d'importance ; parce qu'enfin, en se tenant trop à la rigueur des principes, le Gouvernement Français aurait pu causer quelque embarras au nouveau Pré-

sident des Etats-Unis, dont cette modification n'est point l'ouvrage.

Par l'adoption du Gouvernement, les deux modifications, apposées par les Etats-Unis sont devenues partie de la convention ; et c'est par cette raison, citoyens législateurs, que, contre l'usage ordinaire, il a paru nécessaire qu'elles fissent partie de la loi qui vous est proposée.

Du 11 Frimaire.

Le corps législatif arrête que les ratifications apposées par le Gouvernement Français, et par celui des Etats-Unis, sur la convention conclue le 8 Vendémiaire, an 9, présentées aujourd'hui au corps législatif par un orateur du gouvernement, ainsi qu'une expédition de l'acte du conseil d'Etat, relatif à la présentation de ces ratifications, et de l'exposition des motifs, seront transmis au tribunalat par un message.

Discussion de la Convention du 30 Septembre, 1800.

Rapport fait au Tribunalat par P. A. Adet, l'un de ses membres, au Nom d'une Commission spéciale, sur la Convention conclue entre la République Française et les Etats-Unis de l'Amérique.

SÉANCE DU 13 FRIMAIRE, AN X.

(V. Moniteur, An X, No. 74, 75, et 76.)

L'ordre du jour appelle le rapport sur la convention conclue entre la République Française et les Etats-Unis d'Amérique.

Adet. La reconnaissance attachait les Américains à la France sous le gouvernement monarchique. Au commencement de la révolution un sentiment plus

vif les porta vers nous ; tout concourait à resserrer les liens qui unissaient les deux nations, lorsque les passions des hommes qui les gouvernaient vinrent se placer entr'elles et les séparer. Le Gouvernement Américain, oubliant les devoirs de la neutralité, avait conclu, sous l'influence des ennemis de la France, un traité qui blessait nos intérêts. Le Gouvernement Français, au lieu d'entamer des négociations dont la conduite modérée de ses agens, dont les dispositions du peuple Américain lui garantissaient le succès, croit devoir prendre des mesures de rigueur à l'égard des Etats-Unis. Il rapporte les arrêtés, abroge les lois favorables aux Américains, et ordonne au ministre de la république de suspendre ses fonctions près le gouvernement fédéral. Lorsque les Etats-Unis, pour mettre un terme aux mesures qui pesaient sur eux, envoient trois commissaires à Paris ; il paraît peu disposé à les écouter. Bientôt l'Amérique re-tentit de leurs plaintes ; les hommes qui s'y étaient montrés constamment nos ennemis, saisissent cette occasion pour persuader au peuple qu'on ne peut traiter avec nous sans compromettre sa dignité. Ils égarent les esprits, exaltent les passions, entraînent sans peine un gouvernement disposé à céder aux impressions qu'ils lui donnent ; et l'autorité législative elle-même, s'abandonnant à un sentiment qu'elle croit, à tort, celui de la nation, rend, le 7 Juillet, 1798, le bill suivant : “ Il est passé en acte par le sénat et la chambre des représentans des Etats-Unis d'Amérique, assemblés en congrès, que les Etats-Unis sont de droit déliés et dégagés des stipulations des traités et de la convention consulaire conclus jusqu'à ce jour entre les Etats-Unis et la France et que ledits traités et convention ne seront plus à l'avenir regardés comme obligatoires par le gouvernement ou les citoyens des Etats-Unis.”

En conséquence de ce bill, le Gouvernement Américain suspend les relations commerciales des Etats-Unis avec la France, et donne aux particuliers permission de courir sur les vaisseaux armés de la république. Les frégates de l'Etat ont ordre de les chercher, de les combattre.

Une frégate, une corvette françaises, successivement et inopinément attaquées par les Américains, sont obligées de céder à la force, et le pavillon français, étrange versatilité des choses humaines, est traîné, humilié devant le même peuple qui naguères, par un cri d'allégresse, avait applaudi à son triomphe.

C'en était fait ; la guerre éclatait entre l'Amérique et la France, si le Directoire changeant de système, écoutant les conseils de la prudence, n'avait opposé la modération à la conduite peu mesurée du Président des Etats-Unis. Par-là il déjoua les projets du ministère américain, qui, s'il n'avait eu que sa volonté à consulter, nous aurait déclaré la guerre. Mais en effectuant le premier une rupture qu'il désirait, il aurait craint de ne pouvoir rallier tout le peuple autour de lui ; pour éviter ce danger, il a senti la nécessité de vaincre la répugnance que les Américains ont pour la guerre et d'imposer silence aux sentimens qui leur auraient fait prendre à regret les armes contre nous. C'est dans cette vue, que par des mesures hostiles, il provoquait de notre part une déclaration de guerre, qui mettant l'agression de notre côté, n'aurait laissé à aucun Américain la possibilité de s'isoler de son gouvernement.

Quoique le Gouvernement Français se refusât à faire la guerre aux Etats-Unis, rien n'annonçait qu'ils fussent disposés à discontinuer leurs actes d'hostilité, quand tout-à-coup le Président des Etats-Unis, craignant de se trouver entraîné trop loin, se détermine à envoyer trois ministres en France aussitôt qu'il est informé qu'on les y recevra avec les égards dûs à leur caractère.

Tel était l'état des choses, lorsque les consuls furent appelés à gouverner la république. Les amis de l'humanité ne doutèrent pas que le nouveau gouvernement ne s'empressât d'accueillir les propositions de l'Amérique, et ne commençât le grand œuvre de la pacification générale, en rétablissant la bonne harmonie entre deux nations qui n'auraient jamais dû être divisées.

Cet espoir ne fut pas trahi, et la république recueillit bientôt le fruit de la sagesse et de la modération de son gouvernement. Un traité fut conclu avec l'Amérique : il est aujourd'hui soumis à votre délibération.

Pour le juger d'une manière convenable, il faut oublier un instant que la paix générale est faite, et que nous sommes entourés de nations amies ; il faut nous reporter vers l'époque à laquelle il a été conclu, et nous rappeler que le continent n'était pas pacifié, que Malte était déjà tombée au pouvoir de l'ennemi, que l'Egypte était menacée, que la Russie n'avait pas séparé ses drapeaux de ceux des ennemis de la France, et que les puissances du Nord ne s'étaient pas encore rapprochées de nous.

Fallait-il, dans ces circonstances, ne rien négliger pour rétablir la bonne harmonie entre la république et les États-Unis, ou pousser presque malgré elle, au rang de nos ennemis, une nation dont l'amitié devait nous devenir utile pour nos relations commerciales ? Cette question n'est pas difficile à résoudre : mais en la décidant, on prononce sur le mérite du traité.

Il ne s'agit plus que de savoir si le gouvernement, en s'acquittant d'une obligation que lui imposait le bien de l'état, n'a pas fait aux États-Unis des concessions que désavouerait l'intérêt national. Vous allez, je pense, tribuns, être convaincus du contraire, lorsque j'aurai fixé votre attention sur les diverses parties de la convention conclue entre la république et les États-Unis.

La convention conclue entre la république et les États-Unis, renferme des dispositions relatives :

1o. A l'abolition des traités de 1778, et aux indemnités réclamées par les Américains.

2o. A la protection dont les citoyens d'un des États doivent jouir sur le territoire de l'autre, aux droits de propriété qu'ils peuvent y exercer.

3o. A la manière dont la navigation des deux puissances se trouve réglée, soit pendant la paix, soit pendant la guerre que l'une des deux a à soutenir.

4o. A la conduite que l'une des puissances, quand l'autre sera en état de guerre, tiendra à l'égard des bâtimeus armés de cette puissance belligérante, et de ceux de ses ennemis.

5o. A l'établissement des agens commerciaux, et à la manière dont ils doivent être respectivement traités.

Je vais successivement examiner ces dispositions. Je vous ai déjà dit, tribuns, que les Etats-Unis avaient déclaré la convention consulaire, et les traités de 1778, comme nuls et non-avenus, et se croyaient dégagés des obligations qu'ils leur imposaient. Le Gouvernement de la République, malgré cet acte du congrès, ne regardait pas les traités comme annulés, pensant qu'un traité ne peut être aboli que par le consentement mutuel des deux parties contractantes, ou par une déclaration de guerre. Mais, d'une part, la France n'avait pas accédé à la dissolution des traités, de l'autre il n'y avait pas eu de déclaration de guerre. Qu'on ne regarde pas comme une déclaration de guerre les commissions délivrées par le président, pour courir sur les bâtimens armés de la France : La volonté du président ne suffit pas pour mettre l'Amérique en état de guerre ; il faut une déclaration positive du congrès à cet égard : jamais il n'en a existé. La république était donc fondée à réclamer la jouissance des stipulations comprises dans ses anciens traités, et des indemnités pour la non-exécution de ces stipulations.

De leur côté, les Etats-Unis réclamaient des indemnités pour les prises faites sur leur commerce. Mais liés par l'acte du congrès du 7 Juillet, ils ne croyaient pas pouvoir traiter d'après les bases présentées par le Gouvernement Français, et les ministres des deux puissances, ne pouvant résoudre une difficulté qui les arrêtait, se déterminèrent à l'ajourner. Tel fut d'abord l'objet de l'article II. de la convention. Cependant, lorsque le sénat des Etats-Unis examina la convention du 8 Vendémiaire, an 9, il l'approuva avec le retranchement de l'article II. et le président la ratifia avec la même modification.

Il suivait nécessairement de là que les Américains, en ne nous reconnaissant pas le droit de faire valoir de nouveau nos anciens traités, s'interdisaient aussi la faculté de réclamer des indemnités, pour les prises faites sur leur commerce ; car c'était en vertu du traité que nous voulions faire revivre, qu'ils pouvaient réclamer ces indemnités ; d'après cela, si on regardait comme existans les traités de 1778, il était clair que nous devions des

indemnités aux Américains pour les prises faites sur eux, en violation des stipulations relatives à la franchise du pavillon ; tandis que si on considérait les traités comme abolis, nous ne pouvions admettre les réclamations des Américains, puisqu'ils ne pouvaient les appuyer d'aucun titre.

Telles étaient les conclusions qui dérivaien^t naturellement de la suppression du 2^e article. Mais le Gouvernement Français a voulu qu'il ne restât aucun doute à cet égard : aussi dans la ratification, en approuvant le retranchement du 2^e article, a-t-il ajouté ces mots : " Bien entendu que par ce retranchement, les deux Etats renoncent aux prétentions respectives, qui sont l'objet de cet article."

Cette renonciation respective à la faculté que chacune des parties contractantes s'était réservée dans le 2^e article, écarte à jamais tout sujet de mésintelligence entre les deux états. Sans cela, il aurait fallu, lors d'une nouvelle négociation, rappeler les anciens sujets de querelles, réveiller des souvenirs qu'il est convenable d'écarter à l'époque où les rênes du Gouvernement Américain se trouvent dans les mains d'un homme aussi connu du monde par sa probité et ses principes de modération, que par ses lumières et son attachement à la liberté ; à l'époque où tout semble garantir aux deux nations la durée de leur bonne intelligence, et où des circonstances particulières la leur rendent plus précieuse encore par les avantages qu'elles peuvent en tirer.

Dans les stipulations relatives à la manière dont les citoyens d'une des nations seront traités sur le territoire de l'autre, vous voyez qu'ils ont la faculté de disposer par testament ou autrement des biens possédés sur le territoire de cet état ; que les intérêts des familles sont respectés.

Quelques personnes, en rendant hommage aux principes qui ont dicté cet article, ont été surprises de n'y rien trouver de relatif à la protection que chaque état doit à la

personne des citoyens de l'autre. Une pareille clause eût été inutile et superflue. Les états libres savent ce qu'on doit aux hommes, n'ont pas besoin de réclamer, pour leurs citoyens respectifs, ces égards, dont l'hospitalité ne se dispense jamais envers un étranger, qui a d'autant plus besoin de la protection du gouvernement, qu'il n'est environné ni des soins de l'amitié, ni de l'affection de ses parens. Mais vous remarquerez avec plaisir l'article 8, qui porte que, si la guerre éclate entre les deux nations, les marchands, citoyens, et autres habitans respectifs, auront six mois, après la déclaration de guerre, pour sortir du territoire ennemi, vendre ce qu'ils y possèdent, et qu'ils y seront efficacement protégés. Cette stipulation, digne du siècle où nous vivons, établit, d'une manière tranchante, la différence qui existe entre les nations civilisées et les peuples barbares, qui, une fois que la guerre les appelle dans les camps, ferment l'oreille à la voix de l'humanité, de la justice, et font tomber sur la tête d'un malheureux sans force et sans défense, tout le poid d'une vengeance dont il ne peut être l'objet, ou, sous le prétexte de querelles nationales, rompent des engagemens qu'une confiance mutuelle avait fait contracter, et qui étaient sous la sauve-garde de la probité individuelle.

Après vous avoir parlé de la manière dont les deux états avaient stipulé en faveur des intérêts de leurs citoyens, nous allons voir comment ils ont réglé leur navigation pendant la paix.

Je ne vous arrêterai pas, tribuns, sur l'article relatif au passeport et aux certificats dont tout bâtiment doit être pourvu. Par cet article, on a établi la manière dont la propriété du bâtiment et celle de la cargaison, pouvaient être constatées. Mais aussi on a voulu que ce passepart, ces certificats fussent les seules pièces qu'on pût exiger. On s'est rappelé, en rédigeant cet article, des temps malheureux, où les neutres, traînés dans nos ports, obligés de rapporter une foule de pièces exigées par des réglemens sans nombre, privés souvent de ces mêmes pièces par la

perfidie des corsaires, se trouvaient à la merci d'hommes avides qui les regardaient comme ennemis, parce qu'ils étaient faibles.

Il serait inutile, je pense, d'insister sur l'article où il est stipulé que les citoyens français ne paieront point d'autres droits, d'autres impôts que les nations les plus favorisées, et qu'ils jouiront des mêmes privilèges que ces nations. Cette clause est favorable à notre commerce ; car de long-temps l'Amérique n'aura de manufactures. Elle offre un vaste marché à celles d'Europe ; et si notre industrie arrive au point de développement dont elle est susceptible ; si elle sait se plier au goût de l'Amérique, pour une infinité d'objets que nous pouvons lui fournir, nous parviendrons à partager les bénéfices que son commerce offre à quelques nations européennes. Ne pas payer d'autres droits que les nations les plus favorisées, voilà ce que raisonnablement nous pouvions demander à l'Amérique ; en exiger davantage, c'eût été l'empêcher de profiter de la concurrence.

Nous arrivons maintenant, tribuns, à la partie la plus importante du traité, aux articles qui déterminent les relations des deux nations, lorsque l'une est en paix et l'autre se trouve en guerre.

L'article 12 accorde aux citoyens de l'état neutre, la faculté de conduire leurs vaisseaux et marchandises, excepté la contrabande, de tout port quelconque dans un port ennemi ; d'aller d'un port ennemi dans un port de la puissance belligérante ; des ports neutres dans les ports et places appartenant à l'ennemi, à moins que ces ports ne soient réellement bloqués, asségés ou investis.

Cette stipulation, tribuns, est parfaitement d'accord avec les droits des puissances neutres ; car les puissances belligérantes ne peuvent s'appuyer d'aucun titre pour empêcher les neutres d'exercer leur industrie, pour les forcer à restreindre leur commerce, pour les associer à leurs querelles, et leur faire partager les malheurs de la guerre.

Nous ne pouvons en même-temps nous empêcher d'approuver la restriction apportée au commerce des neutres

avec les places réellement investies, assiégées ou bloquées. En effet, la puissance qui assiégerait une place, agirait contre ses propres intérêts, si elle permettait à un neutre de porter à l'ennemi des munitions de guerre ou de bouche qui lui donneraient les moyens de faire prolonger sa résistance. Il était également juste de stipuler que le bâtiment neutre qui aurait voulu pénétrer dans un port bloqué, après avoir été averti qu'il ne pouvait y entrer, fût saisi dans le cas même où il ne serait pas chargé de contrebande de guerre, parce qu'il serait sorti alors des devoirs de la neutralité, en manifestant l'intention de porter des secours à l'une des parties belligérantes : mais il appartenait à la loyauté du gouvernement français d'attacher au mot *bloqué* son véritable sens. Dans ces derniers temps, on a avancé sur le *blocus* une théorie si extraordinaire, qu'un port pourrait se trouver bloqué par une escadre, qui, après une croisière de quelques heures, s'en éloignerait à plusieurs centaines de lieues, et une ville par une armée, qui, après l'avoir investie, se retirerait sur son propre territoire.

L'article 13 détermine d'une manière positive ce qu'on doit comprendre sous la dénomination de contrebande de guerre. La liste de ces objets est limitée à ce qui sert directement à la guerre ; elle ne s'étend pas comme dans le traité que les Américains ont conclu en 1794 avec la Grande-Bretagne, aux munitions navales, aux subsistances. On pourrait croire que par cette stipulation-là les intérêts de la république sont compromis, puisque, dans un cas de guerre avec la Grande-Bretagne, cette puissance pourrait saisir à bord des navires américains toutes les munitions navales qui seraient destinées pour nos ports, et que nous ne pourrions nous emparer de celles que les américains conduiraient à l'ennemi. Mais, tribuns, il est d'une politique grande et libérale comme celle du peuple français, d'apporter au commerce des autres peuples le moins de limitations possibles. Ce serait rétrograder vers les temps de barbarie que de suivre une doctrine contraire ; depuis 150 ans on a excepté généralement les munitions

navales de la liste de contrebande de guerre, parce que depuis 150 ans la civilisation a fait des progrès rapides, parce qu'on a en conséquence mieux connu les droits des nations et ceux de l'humanité; parce que tous les peuples, d'un commun accord, ont cherché à protéger le commerce. La France pouvait-elle se départir de ces principes? pouvait-elle faire insérer dans la convention américaine, des clauses qu'elle avait regardées constamment comme une violation manifeste du droit maritime moderne? pouvait-elle annoncer à l'Europe qu'elle allait concourir au rétablissement des coutumes barbares qui caractérisent les siècles d'ignorance; mais en laissant de côté les considérations générales, et examinant seulement la question qui nous occupe relativement à l'Amérique, voyons ce que cette limitation de la liste de contrebande de guerre peut avoir d'inconvéniens pour nous.

Quelles sont les munitions navales que l'Amérique peut fournir aux Européens? du goudron, des bois de construction et des mâtures.

Mais, en Angleterre comme en France, on préfère les braies du Nord; le chêne ordinaire de l'Amérique est inférieur en qualité à celui de France et d'Angleterre; les mâtures du Nord sont supérieures à celles de l'Amérique. Il est peu probable, d'après cela, que la Grande-Bretagne tire ses munitions navales d'Amérique.

Mais lors même qu'on admettrait le contraire de ce que je viens d'avancer; lors même que nous aurions compris les munitions navales dans les articles de contrebande de guerre, cette stipulation deviendrait illusoire; en raison de sa position géographique, l'Angleterre recevrait toutes les munitions qui lui seraient nécessaires, sans que nous puissions l'empêcher.

Les Américains s'élèvent dans le Nord pendant l'hiver à des hauteurs, où il est difficile, pour ne pas dire impossible, d'établir des croisières, et viennent, sans craindre aucun trouble, aborder les côtes d'Angleterre, après avoir doublé les Orcades.

Les articles 14 et 15 qui suivent immédiatement celui

que je viens d'examiner, consacrent d'une manière positive les principes du droit moderne des nations sur la franchise du pavillon neutre.

Quelques personnes ont pensé que dès que les Américains avaient abandonné ce principe dans le traité de 1794, nous aurions dû aussi ne pas le maintenir dans le nôtre, attendu qu'en cas de guerre entre la France et la Grande-Bretagne, les Anglais peuvent enlever à bord des Américains les propriétés françaises, tandis que nous devons respecter les propriétés anglaises à bord des Américains.

Il était de la dignité de la France de ne pas s'écarter d'une stipulation qui, tôt ou tard, deviendra la base du droit maritime des nations ; et qu'on ne s'y trompe pas, tribuns, les mêmes calamités pesent sur deux nations dont l'une cherche à interdire tout commerce à son ennemi. A la vérité, en interceptant sa navigation, en empêchant l'exportation des produits de son sol et de son industrie, elle diminue ses moyens de subsistance, tarit les sources de ses richesses, détruit sa marine, anéantit ses forces ; mais dans l'état actuel de l'Europe il n'y a point de puissance, qui par la cessation du commerce d'une autre ne se trouve elle-même privée de quelque branche de son commerce, et n'éprouve bientôt les maux qui en sont la suite.

C'est bien assez que des milliers d'hommes soient sacrifiés trop souvent aux passions de ceux qui les gouvernent ; que les capitaux qui auraient vivifié l'agriculture et l'industrie, et répandu de proche en proche la prospérité dans toutes les parties de la grande famille européenne, soient détournés de leur véritable destination, et dévorés par la guerre.

C'est bien assez que les nations belligérantes suspendent entre leurs citoyens toutes relations directes de commerce ou d'amitié, sans qu'on ajoute encore aux malheurs de la guerre en les empêchant d'exercer une industrie quelconque à leur profit, au profit des nations qui ne se sont point mêlées dans leurs sanglantes querelles ; en empêchant les neutres de remplir

un devoir sacré, celui de tendre une main securable à deux ennemis également malheureux.

Les magasins sont encombrés de marchandises qui se détériorent ; la circulation languit ; les fonds ne rentrent point ; les manufactures sont abandonnées ; les ouvriers sans travail et sans moyen de subsistance, tourmentent l'Etat par leur oisiveté, le surchargent de leur misère ; les productions du sol se perdent faute de débouchés ; les marchandises étrangères, dont l'habitude a fait un besoin, augmentent de prix, si elles ne sont pas prohibées ; elles entrent en contrebande quand elles sont défendues : l'Etat se trouve privé de ses douanes, et tous ses revenus diminuent et s'anéantissent dans le moment où il est condamné à des dépenses extraordinaires. Si vous ajoutez à cela les violences qui s'exercent sur les neutres quand on ne reconnaît pas la franchise de leur pavillon, vous verrez les pertes s'accroître, le commerce dépérir entièrement, et tous les peuples livrés à la fois aux mêmes angoisses et aux mêmes misères.

Qu'on cesse donc, je le répète, d'ajouter, sans nécessité, aux maux de la guerre ; qu'on donne au commerce la protection que l'intérêt de tous les peuples réclame en sa faveur ; qu'on mette un terme aux pirateries, qui démoralisent les nations qui les autorisent, qui n'ont d'autre fin que de tout détruire, et dans le court espace de temps qu'ils ont à passer sur la terre, les hommes jouiront au moins d'une plus grande somme de bonheur. Le gouvernement a été guidé par des vues libérales, quand il a consacré le principe de la franchise du pavillon ; mais en outre il a senti qu'il n'y avait aucun avantage à maintenir le principe contraire. On ne saisit point les propriétés de son ennemi à bord des neutres, quand cet ennemi a un grand commerce extérieur, et les moyens de le protéger. Il n'abandonne point aux neutres les profits de sa navigation ; il emploie ses propres bâtimens, ses propres matelots. Le peuple qui n'a pas les mêmes moyens de protection à accorder à son commerce,

emprunte seul les secours du pavillon neutre. Ainsi, qu'on admette que la république soit puissante ou faible, elle doit toujours protéger le pavillon neutre ; dans le premier cas, par esprit de justice ; dans le second, par un intérêt bien entendu. D'ailleurs le principe de la franchise du pavillon avait été adopté par la France en 1646. Pouvait-il être abandonné dans un temps où l'on favorise toutes les institutions qui peuvent être utiles au genre humain ? et quand il en résulterait pendant le cours de quelques années un mal passager pour nous, faudrait-il pour cela ne pas y tenir ? La justice, à mesure que les hommes s'éclairent, l'emporte toujours sur la force et la violence. On n'égorge plus aujourd'hui le soldat qui rend ses armes, on ne condamne plus à l'esclavage les prisonniers de guerre, les habitans des pays qu'on parcourt en vainqueur. Eh bien, on verra un jour aussi le pavillon neutre, respecté par toutes les nations, leur présenter encore au milieu des horreurs de la guerre l'image consolante de la paix.

C'est à la France qu'il appartient de hâter cette heureuse époque ; toutes les nations lui seront redevables de ce bienfait, si elle ne s'écarte pas du plan qu'elle s'est tracé jusqu'à ce moment, si elle accorde en temps de guerre aux neutres la protection la plus illimitée. Tôt ou tard elle recueillera le fruit de cette conduite libérale. Les nations, les gouvernemens, comme les individus, sentent le prix de la justice, qui veille à leurs intérêts et qui les protège ; leurs vœux, comme leurs secours officiels, seront toujours pour l'Etat qui n'exercera pas à leur égard une tyrannie contre laquelle souvent ils ne pourront se soulever, mais qu'ils détesteront dans le fond de leur cœur.

Si j'en appelle aux faits pour soutenir ce que j'avance, je n'ai besoin que de me reporter à la guerre que nous venons de soutenir. Ce n'est que quand nous avons oublié le respect que nous devons au pavillon des neutres, que nous nous sommes trouvés aux prises avec tous les besoins. Les menaces de nos ennemis, les mauvais

traitemens qu'ils ont essuyés, rien n'a pu les empêcher d'entrer dans nos ports ; nous seuls nous les en avons écartés par nos mesures violentes. Ils se seraient peut-être jetés dans les bras de nos ennemis, si le nouveau gouvernement, plus instruit des vrais intérêts de la nation, ne s'était laissé guider par des principes propres à lui ramener tous les neutres. C'est dans le traité que nous examinons qu'il a consacré d'abord ces principes. Vous avez vu ce qu'ils ont produit dans le Nord en notre faveur ; si le succès n'a pas répondu à notre attente, c'est qu'il est des événemens que la prudence humaine ne peut ni prévoir ni empêcher ; mais, quoi qu'il en soit, le passé doit vous montrer ce que vous pouvez attendre de l'avenir.

Les articles subséquens du traité ne sont, à proprement parler, que les conséquences de l'article XIV.

Cependant on n'a point omis les précautions nécessaires pour s'assurer si les bâtimens neutres contenaient ou non des objets de contrebande de guerre ; ces bâtimens doivent être pourvus de passeports, de certificats désignant la nature de la cargaison dans la forme déterminée par le traité. Les capitaines sont obligés d'exhiber, à la requisition des bâtimens armés, ces passeports, ces certificats. Mais en même-temps on a pris les mesures propres à empêcher l'équipage du vaisseau visiteur, de commettre quelque violence à bord du neutre. L'expérience n'a que trop convaincu de la nécessité d'une pareille clause.

Dans le cas où le bâtiment visité contiendrait des articles de contrebande, le capitaine du navire visité peut offrir de les remettre au bâtiment visiteur ; son offre sera acceptée ; il aura la faculté de poursuivre sa route, à moins que la quantité de marchandises de contrebande ne soit trop considérable pour être prise à bord du bâtiment armé : alors le neutre sera amené dans un port pour y délivrer sa marchandise. Mais dans ce cas comme dans l'autre, le bâtiment, ni le reste de la cargaison, ne seront confisqués.

Il est clair que cette condition est une conséquence

immédiate de la liberté du commerce. Ce serait faire, tribuns, injure à vos lumières que de croire qu'il soit nécessaire, pour le prouver, d'entrer dans quelques développemens.

Si les bâtimens de guerre ont le droit de visiter les vaisseaux de commerce, naviguant isolément, ils n'ont point cette faculté aussitôt que ces bâtimens se trouvent sous l'escorte d'un bâtiment de guerre de l'état neutre ; pour assurer la propriété des navires et la nature des cargaisons, il suffit que le commandant du bâtiment de guerre déclare que les vaisseaux qu'il convoie, appartiennent à la nation dont ils portent le pavillon, et qu'ils ne sont point chargés de contrebande de guerre.

Si les hommes, de particulier à particulier, se doivent des égards, les nations s'en doivent aussi ; et certes ce serait y manquer que d'exiger, dans une pareille circonstance, plus que la déclaration de l'officier commandant du convoi, puisqu'on supposerait par-là que le gouvernement auquel il appartient, peut trahir son honneur, la confiance des autres gouvernemens, et s'avilir aux yeux de sa nation et des autres peuples.

Les stipulations relatives à la manière dont on procédera à la saisie, et à la condamnation de la contrebande de guerre, sont également dignes de remarque. Les officiers du bâtiment qui saisit, sont obligés de laisser au capitaine une liste énonciative des papiers dont ils s'emparent ; ils ne peuvent rien emporter du navire arrêté, ni en enlever le capitaine, ou le subrécargue. Ce capitaine doit également rester à bord pendant le temps du procès : il ne peut, non plus que les matelots et passagers, être dépouillé de ses effets, de l'argent à son usage. Ces dispositions sont extrêmement justes ; elles sont dignes d'éloge. Mais votre commission a vu avec peine que l'on avait limité, pour les passagers et le capitaine, la somme d'argent qui pouvait être à leur usage, et qu'on avait mis les passagers sur le même pied que les matelots.

Cette stipulation, empruntée d'anciens traités, ne lui a pas paru avoir un caractère aussi libéral que les autres clauses de la convention. On serait tenté de croire, au

premier coup-d'oeil, que dès que la somme est limitée, l'excédent de cette somme pourrait être saisi. Que s'il en était ainsi, le traité se trouverait en contradiction avec lui-même, puisque l'argent se trouverait, dans ce cas, considéré comme contrebande de guerre, tandis qu'il n'est pas compris dans les articles de contrebande : d'une autre part, pourrait-on ajouter, si par les stipulations précédentes on est convenu qu'on ne pourrait enlever du vaisseau arrêté que la contrebande de guerre, pourquoi limiter la somme que les capitaine, passagers et matelots doivent avoir à leur usage ?

Un instant de réflexion, tribuns, suffit pour trouver que dans cette restriction il n'y a rien de contraire au traité. D'abord on ne peut pas dire qu'on a droit de saisir la somme d'argent qui excéderait celle qui se trouve déterminée par le traité pour l'usage personnel du capitaine et subrécargue : car dès qu'il y a une stipulation positive et explicite qu'on n'enlèvera rien du navire, on ne peut pas supposer que l'article que nous examinons renferme une stipulation implicite qui puisse autoriser la saisie de l'argent. Il reste donc seulement à chercher une raison à l'appui de cet article ; il est difficile d'en trouver une plausible. Au reste, cette stipulation n'est pas de nature à influencer sur la détermination du tribunal.

L'article 22 n'a pas paru d'abord à votre commission aussi complet qu'il aurait dû l'être : elle a cru qu'il pourrait occasionner des difficultés dans l'exécution, lorsque le vaisseau neutre arrêté serait conduit dans le port d'une puissance amie ou neutre ; que le capitaine du vaisseau capturé pourrait demander toujours à être jugé par les tribunaux territoriaux, d'après cette clause, " il est convenu que, dans tous les cas, les tribunaux établis pour les causes de prises, dans les pays où les prises seront conduites, pourront seuls en prendre connaissance." Mais, tribuns, cette difficulté s'évanouit quand on l'examine attentivement. En effet, ou la puissance à laquelle appartient le bâtiment capturé aura avec la puissance chez laquelle la prise se trouve conduite, un traité qui donnera à ses agens commerciaux, ou à d'autres officiers publics, le droit de prononcer la confiscation, ou elle n'en aura

pas. Si elle a une telle stipulation, il est clair que les tribunaux du pays où on aura conduit le bâtiment neutre, ne pourront pas connaître de la validité de la saisie des articles de contrebande de guerre ; dans les cas où le neutre voudrait y porter sa cause, ils se déclareraient incompétens. S'il n'existait pas de stipulation de cette nature, en faveur de la puissance dont le bâtiment aurait arrêté le neutre, alors la contestation, pour son jugement, suivrait le cours ordinaire des choses.

L'avidité des corsaires aurait pu se jouer des précautions prises pour assurer la liberté du commerce de l'Etat neutre, et à la mer nulle puissance n'aurait pu les empêcher de violer les clauses les plus essentielles du traité. On a prévenu cet inconvénient en exigeant des corsaires un cautionnement, et en les soumettant de plus à la peine d'être privés de leur commission.

Cette précaution est sage et dictée par l'humanité ; votre commission n'a pu qu'y applaudir.

Après avoir parcouru la partie du traité relative à la navigation en temps de guerre, vous en avoir présenté les points les plus importants, je vais passer aux articles qui règlent la conduite que l'une des deux puissances, quand l'autre sera en guerre, tiendra à l'égard des bâtimens de cette puissance belligérante, et de ceux de ses ennemis.

Les bâtimens de guerre de la puissance belligérante seront admis à relâcher avec leurs prises dans les ports de la puissance neutre ; ils ne seront sujets à aucun droit ; on ne pourra prendre connaissance de la validité des prises ; on ne pourra les saisir, ni les arrêter.

Les bâtimens ou corsaires ennemis, ne pourront armer leurs bâtimens dans les ports de la partie neutre ; il ne leur sera permis d'acheter des provisions que la quantité nécessaire pour gagner le port le plus voisin de la puissance à laquelle ils appartiennent.

Liés par le traité de 1794, les Américains n'ont pu nous accorder, pour la relâche de nos bâtimens de guerre, les mêmes faveurs qui nous étaient concédées par le traité de 1778. En effet, les Etats-Unis, en donnant aux Anglais la faculté de relâcher dans leurs ports, en avaient exclus leurs ennemis, s'étaient engagés, pendant la durée de leur traité, à n'accorder cette faveur à aucune autre na-

tion ; cependant ils nous conservèrent les droits dont nous jouissions.

Mais aujourd'hui, puisque nos anciens traités avec les Etats-Unis sont abolis, celui conclu avec l'Angleterre a l'antériorité sur la présente convention ; nos bâtimens ne peuvent donc être admis de droit dans les ports des Américains. Quelque grave que soit cet inconvénient, votre commission n'a pas pensé qu'il pût jamais être nuisible à la République. Tout nous porte à croire que nous ne verrons pas une nouvelle guerre s'allumer avant l'expiration du traité de 1794, qui cessera d'être obligatoire pour les deux parties, au plus tard dans six ans ; et nous devons espérer en outre que les Américains ne manqueront pas de nous rétablir dans nos droits, aussi-tôt que les circonstances le leur permettront.

Votre commission a regretté qu'on n'ait point rappelé, dans cette partie du traité, l'article 22 du traité de 1778, qui porte que, “ si un citoyen d'un des deux Etats reçoit des commissions d'une puissance ou d'un prince en guerre avec l'autre, il pourra être traité comme pirate.”

Les deux derniers articles dont j'ai à vous entretenir, mes collègues, sont relatifs aux pêcheries et à l'établissement des agens commerciaux : ces deux articles n'ont paru présenter à votre commission aucune difficulté, et lui ont paru tellement clairs, qu'il serait inutile d'entrer dans des détails qui deviendraient minutieux et fatigans.

Je me suis acquitté de la tâche qui m'était imposée, je vous ai présenté l'examen des stipulations principales de la convention conclue avec les Américains : je vous ai exposé rapidement les motifs qui les appuyaient ; ils vous paraîtront sans doute suffisans pour vous faire conclure avec votre commission, composée des tribuns Arnould, Boisjolin, Chauvelin, Legonidec, Echasseriaux, Benjamin Constant, et du rapporteur, que vous devez voter l'adoption du projet de loi qui y est relatif.

Et quelle raison pourrait vous faire hésiter, quand cette convention est le gage de la réconciliation de deux nations amies, qui se sont juré fraternité d'armes sous les drapeaux de la victoire ; quand vous vous appellerez que, malgré les erreurs momentanées de leur gouvernement,

les vrais Américains n'ont jamais prononcé le nom Français qu'avec des sentimens d'admiration ; quand vous penserez que leur reconnaissance pour nous vivra aussi long-temps dans leurs coeurs, que le souvenir de la gloire qu'ils ont acquise dans cette guerre, dont nous avons partagé les fatigues et les dangers. ?

Félix-Beaujour. On a cru que le refus des Américains de ratifier l'article II. était fâcheux pour nous ; on s'est trompé ; cet article ne tendait qu'à faire revivre la garantie, stipulée dans le traité de 1778. Or, cette garantie en apparence réciproque, n'était, dans le fait, réelle que pour eux, tandis qu'elle était illusoire pour nous, puisqu'on ne peut garantir des îles qu'avec des flottes, que les Américains n'en avaient point à cette époque, et qu'à proprement parler, ils n'en ont point encore.

Le système des Américains est bien connu, ils ne veulent point se lier les mains par des garanties, pour n'être point emportés malgré eux dans un tourbillon qui leur semble étranger. Ce n'est pas ici le lieu d'examiner si ce système qui peut convenir aux grandes puissances, convient également aux médiocres, s'il est toujours sage de s'isoler, et si cet isolement ne finit pas quelquefois par déplaire aux nations faibles, choquer les nations fortes, et rallier les unes et les autres par l'attrait des compensations.

Mais s'il n'est point permis aux gouvernemens comme aux particuliers d'être généreux, parce qu'ils stipulent pour autrui, leur est-il défendu d'être justes ? et la reconnaissance n'est-elle pas une partie de la justice ?

D'ailleurs est-il bien vrai que la politique européenne soit tout-à-fait étrangère aux Américains ; et qu'ils n'aient plus besoin de nous ? Je crains bien qu'ils ne se fassent illusion, et qu'ils ne jugent de l'état futur de l'Europe par l'état présent. L'Angleterre les caresse aujourd'hui, il est vrai ; mais demain, elle peut les dévorer. Qu'ils regardent autour d'eux, ils verront que cette puissance formidable, maîtresse du Canada et du cours supérieur du Mississippi, les ceint au Nord et à l'Ouest comme dans un cercle de fer, et les menace

encore à l'Est avec ses flottes. Privés comme ils le sont de forces navales, quels sont leurs moyens de résistance ? iront-ils avec des frégates s'aheurter contre le colosse anglais, comme contre une régence de Barbarie ? qu'opposeront-ils aux forces navales de l'Angleterre ? des milices ? Je me plais à rendre hommage à leur valeur ; mais protège-t-on avec des milices toujours difficilement rassemblées, 350 lieues de côtes ouvertes de toutes parts ? Mais des villes florissantes, situées sur des eaux accessibles aux plus grands navires, et dont aucun ouvrage n'interdit les approches, ne peuvent-elles pas être pillées ou brûlées par une flotte, avant qu'on ait réuni un seul bataillon ? Et l'exemple de Carthagène sera-t-il perdu pour l'Amérique ? Les Américains, en ne ratifiant pas l'article II. n'ont donc fait de tort qu'à eux seuls.

Après l'article II, la stipulation la plus importante est celle de l'article VI. Nous traitons dans cet article sur le pied de la plus parfaite réciprocité ; et c'est ainsi qu'il convient aux nations généreuses de traiter entre elles ; mais convenait-il aux Américains d'accorder aux Anglais comme ils l'ont fait dans le traité, les mêmes faveurs qu'à nous ? Je ne le pense pas ; car cette nation, à parité de droits, a sur la nôtre et sur toutes les autres la supériorité des capitaux ; et cette supériorité lui donne tant d'avantages, qu'elle équivaut presque, pour ses rivales, à une exclusion formelle.

Les gouvernemens, dans leurs transactions commerciales, ne devraient consulter que leurs intérêts ; et si les Américains ont bien consulté les leurs, comment n'ont-ils pas vu que notre commerce leur convenait mieux que celui des Anglais, et que, par conséquent, ils devaient le favoriser davantage ?—Ils ont la balance pour eux avec nous, tandis qu'ils l'ont contre eux avec les Anglais ; nous admettons leurs vaisseaux dans nos îles, tandis que l'Angleterre ne veut admettre dans les siennes que leurs canots. Au reste, s'il était de l'intérêt des Américains de favoriser moins les Anglais, nous n'avions pas le droit d'exiger d'autres faveurs que celles qui nous ont été accordées dans l'article VI.

Je vois avec plaisir que l'article XIV. et les suivans consacrent le principe que *la neutralité du pavillon neutralise la marchandise*. Le principe contraire qui dérive du droit de course, droit odieux qu'il vaut mieux limiter qu'étendre, nuit en dernier résultat à tous les peuples navigateurs, en faisant hausser pour eux le prix des marchandises par la cherté des assurances.

Je n'insisterai pas sur les autres articles qui ne sont que des réglemens de police pour la navigation ; mais je dois vous faire remarquer qu'il n'en est aucun qui ne soit propre à rétablir et à maintenir la bonne harmonie entre les deux nations.

Le traité est bon : il l'est relativement aux circonstances où nous nous trouvions quand nous l'avons conclu ; et il l'est encore absolument, puisqu'il n'est en rien contraire à nos intérêts, et qu'on peut le regarder comme un acheminement à un meilleur.

Je vote pour l'adoption du projet de loi.

L'ordre du jour appelle la continuation de la discussion sur la convention conclue entre les Etats-Unis et la France.

Nous rétablissons ici l'analyse du discours prononcé dans la séance d'hier par le cit. Legonidec.

Cet orateur a commencé par rappeler les mouvemens de surprise qu'excita la rupture entre les Etats-Unis et la République Française.

Mille motifs d'intérêts, de reconnaissance et de rapports mutuellement utiles attachèrent les deux états l'un à l'autre même avant la révolution.

La conformité de principes et de bases politiques semblait mettre le sceau à leur alliance.

Il y aurait peut-être, dit-il, plus d'inconvéniens que d'avantages à rappeler les causes premières de la mésintelligence, et il faut éviter tout ce qui pourrait avoir l'apparence de récrimination, pour ne s'attacher qu'aux moyens de réconciliation.

Les négociateurs n'osant proposer à des esprits encore aigris de renouer leur ancienne alliance, prirent un tempéramment, en s'occupant d'une convention provisoire. Le gouvernement Français y apporta une confiance illimitée dans le retour des Américains à l'alliance de la

France ; et, sans égard pour leur traité avec l'Angleterre, renouvella toutes les stipulations favorables à leur neutralité, contenues dans le traité de 1778 ; il s'empressa même de célébrer la signature de ce nouveau gage d'union entre les deux nations.

Cet acte, ajoute-t-il, n'a pas complètement atteint son but : le retranchement de l'article II anéantit, il est vrai, des causes de discussions ultérieures, mais il annonce aussi l'intention positive de renoncer à l'alliance de la France.

Cette alliance était-elle donc de nature à mériter cette phrase extraordinaire, que l'Amérique est *exonérée des traités qui la liaient à la France* ; et n'est-il pas affligeant d'entendre dire que les privilèges de nos traités étaient dus au *besoin pressant de nos secours, à la crainte de l'Angleterre et à la reconnaissance de l'Amérique, et qu'il était difficile de les concilier avec son indépendance*.

Cette opinion est-elle compatible avec l'aveu fait par l'orateur, que le gouvernement a mis dans la négociation, *pour condition préalable à toute stipulation sur les indemnités*, la reconnaissance formelle et le renouvellement des anciens traités ?

L'est-elle avec l'opinion de Francklin qui les présenta à sa nation comme basés sur une réciprocité et une égalité parfaites, et sur-tout dégagés de toutes les préférences onéreuses qui sont la source des dissensions et de la discorde ?

L'est-elle avec l'honneur de l'Amérique elle-même, qui, déjà seule et sans secours, avec des troupes indisciplinées et presque sans armes, avait forcé l'armée royale d'évacuer Boston, en avait réduit une autre à capituler dans les champs de Saratoga, et à se rendre prisonnière de guerre ; elle encore qui au milieu des glaces et des neiges avait enlevé les quartiers d'hiver de Princeton et de Trenton ? Peut-on après de pareils succès croire que la crainte de l'Angleterre pût l'obliger à accorder à quelque chose d'incompatible avec son indépendance ?

L'orateur passe ensuite à l'examen de la convention ; il regrette que l'art. X ait été forcé de laisser autant de vague dans une matière qui avait exigé seule une conven-

tion toute entière qui ne put même être conclue qu'en 1788. Il s'agit de l'art. qui règle les droits et les fonctions des agens commerciaux. Il regrette encore que cet article n'ait pas décidé si l'*exequatur* sera irrévocable de la part de la puissance qui l'a accordé.

Sur les quatre articles XII, XIII, XIV, et XIX, il fait un rapprochement de l'état actuel du droit commun maritime sur le commerce des neutres en temps de guerre, basé sur le traité de 1794 entre les Etats-Unis et l'Angleterre, de la convention du 16 Juin 1801, de cette dernière avec la Russie, et de la convention actuelle.

Il pense que la limitation à 100 et 500 dollars, contenue dans l'article XXI, relative à l'argent que peuvent avoir à leur usage les capitaine, subrécargue, matelots et passagers d'un bâtiment neutre capturé n'est en mesure avec rien de ce qui précède, parce qu'en aucun cas l'argent ne peut être une matière de contrebande de guerre, et qu'il n'y a plus d'arrestation de neutres que sous ce prétexte.

L'article XXIV lui paraît trop incertain dans le droit d'asile qu'il accorde aux bâtimens de guerre et à leurs prises dans les ports des Etats-Unis. Les articles relatifs du traité de 1788 et de 1794 sont positifs ; et il est à craindre que cet article, rapproché de l'article XXV du traité de Jay, ne soit illusoire, puisque ce dernier stipule que les ports respectifs seront fermés aux bâtimens qui auront fait des prises sur les citoyens ou habitans de l'une ou l'autre nation.

Il est peut-être à regretter, dit Legonidec, que l'on n'ait pas stipulé qu'au renouvellement de ce traité ces clauses prohibitives n'y pourront plus être insérées et que nulle autre n'y pourrait être stipulée qui pût nuire à l'assurance donnée par la convention actuelle que la République Française y sera traitée en tout sur le pied de la nation la plus favorisée.

Il termine par les motifs qui doivent décider l'adoption par des considérations sur la situation respective des deux Etats qui, avec tout les motifs de rester unis, n'ont aucun bien réel de se diviser.

Personne ne réclamant la parole, le tribunal ferme la discussion, et il adopte le projet de loi présenté à la majorité de 84 voix contre 3.

CORPS-LEGISLATIF.

Présidence de Dupuis.

SÉANCE DU 15 FRIMAIRE, AN X.

L'ordre du jour appelle la discussion du projet de loi relatif à la convention conclue le 8 Vendémiaire an 9 entre la République Française et les Etats-Unis.

Les tribuns Adet, Félix-Beaujour et Legonidec sont introduits dans la salle, ainsi que le citoyen Rœderer, orateur du gouvernement.

La parole est à l'un des orateurs du tribunal.

Adet résume la discussion qui a eu lieu dans le sein de cette autorité. Après avoir exposé les considérations favorables au projet de loi, comme les objections qui ont été faites, et fait sentir les avantages de chaque article du traité, l'orateur termine en exprimant le vœu d'adoption émis par le tribunal.

La parole est à l'orateur du gouvernement.

Rœderer. Comme je n'aurais aucune observation à faire sur le rapport qui vient de vous être fait, je désire qu'un autre orateur du tribunal soit entendu de suite ; je saurai alors si je dois user de la parole.

Legonidec. Je pense qu'il ne peut y avoir aucune différence entre les orateurs nommés par le tribunal. Nous n'avons tous reçu qu'une seule et unique mission, celle d'exposer les motifs qui ont déterminé le vœu de cette autorité. Le rapporteur a rempli cet objet. Quant à moi, je n'ai rien à ajouter aux considérations développées par mon collègue. Je crois donc que c'est à l'orateur du gouvernement à prendre la parole.

Rœderer. Je ne la demande pas.

Le Président. L'orateur du gouvernement ne prenant point la parole, je déclare que la discussion est fermée.

On procède de suite à la délibération.

Le projet est sanctionné à la majorité de 230 boules blanches contre 10 noires. En conséquence le traité est converti en loi de la République.

TABLE

D E S

M A T I È R E S

CONTENUES DANS LE TROISIÈME VOLUME.

Section F.

Mission et Correspondance officielle de Messrs Pinckney, Marshall et Gerry, Envoyés Extraordinaires, et Ministres Plénipotentiaires des Etats-Unis d'Amérique, près la Republique Française en 1797, et 1798. No. 1—8. . . Page 5—232

Section G.

Correspondance et Négociation de M. Gerry, durant son Séjour à Paris, en 1798, après le Départ de ses Collègues, Messrs. Pinckney et Marshall. No. 1—35. 233—350

Pièces Officielles, qui ont été adressées au Gouvernement Fédéral, par M. Skipwith, Consul-Général d'Amérique à Paris, pièces a b c 351—358

Rapport de M. Pickering, Secrétaire a'Etat des Etats-Unis, sur les Relations entre la France et l'Amérique immédiatement avant la Rupture. 359—401

Section H.

*Supplément de Pièces officielles et autres, relatives
aux Rapports Politiques entre la France et les
Etats-Unis d'Amérique, tant à l'Epoque des
Négociations que durant la Rupture entre les deux
Etats. No. 1.—8..... p. 402—416*

Section I.

*Convention entre la France et les Etats-Unis d'Amé-
rique, signée à Paris, le 30 Septembre, 1800,
avec les Ratifications respectives, et la Discus-
sion au Corps Législatif de France p. 417—481*

FIN DU TROISIEME ET DERNIER VOLUME.

ERRATA A CORRIGER.

Tome II.

Page 35 ligne 5 d'en bas au lieu de 1795 lisez 1796.

Page 56 ligne 4 d'en bas au lieu de 5 Brumaire lisez
25 Brumaire.

Tome III.

Page 76 ligne dernière au lieu de : *or conceiving* lisez :
for conceiving.



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